

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:		: Chapter 11
		:
ORION HEALTHCORP, INC. ¹		: Case No. 18-71748 (AST)
		:
Debtors.		: (Jointly Administered)
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		:
HOWARD M. EHRENBERG IN HIS CAPACITY AS		: Adv. Pro. No. 20-08049 (AST)
LIQUIDATING TRUSTEE OF ORION		:
HEALTHCORP, INC., ET AL.,		: Trial: July 24, 2024
		: Time: 9:30 a.m.
		: Place: Courtroom 960
Plaintiff,		: U.S. Bankruptcy Court
		: 290 Federal Plaza
v.		: Islip, NY
		:
ARVIND WALIA; NIKNIM MANAGEMENT, INC.,		: PTC: July 17, 2024
		: Time: 1:30 p.m.
		:
Defendants.		: Judge: Hon. Alan S. Trust
		:
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**NOTICE OF ERRATA AND LODGING OF CORRECTED EXHIBIT A TO TRIAL
BRIEF OF PLAINTIFF, HOWARD M. EHRENBERG AS LIQUIDATING TRUSTEE OF
ORION HEALTHCORP, INC.**

PLEASE TAKE NOTICE that, in connection with the trial in the above-captioned adversary proceeding, Plaintiff Howard M. Ehrenberg, in his capacity as Liquidating Trustee of Orion Healthcorp., Inc. (“Plaintiff”) hereby files this Notice of Errata and lodges a true and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Orion Healthcorp, Inc. (7246); Constellation Healthcare Technologies, Inc. (0135); NEMS Acquisition, LLC (7378); Northeast Medical Solutions, LLC (2703); NEMS West Virginia, LLC (unknown); Physicians Practice Plus Holdings, LLC (6100); Physicians Practice Plus, LLC (4122); Medical Billing Services, Inc. (2971); Rand Medical Billing, Inc. (7887); RMI Physician Services Corporation (7239); Western Skies Practice Management, Inc. (1904); Integrated Physician Solutions, Inc. (0543); NYNM Acquisition, LLC (unknown) Northstar FHA, LLC (unknown); Northstar First Health, LLC (unknown); Vachette Business Services, Ltd. (4672); Phoenix Health, LLC (0856); MDRX Medical Billing, LLC (5410); VEGA Medical Professionals, LLC (1055); Allegiance Consulting Associates, LLC (7291); Allegiance Billing & Consulting, LLC (7141); New York Network Management, LLC (7168). The corporate headquarters and the mailing address for the Debtors listed above is 1715 Route 35 North, Suite 303, Middletown, NJ 07748.

complete copy of the Ruling Conference transcript for the hearing dated April 10, 2024, in the above referenced adversary which includes adversary no. 20-08052(AST) (as the matters were called together on calendar).

Dated: August 8, 2024

Respectfully submitted,
PACHULSKI STANG ZIEHL & JONES LLP

/s/ Jeffrey P. Nolan

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Counsel for Plaintiff, the Liquidating Trustee

EXHIBIT A

1 UNITED STATES BANKRUPTCY COURT

2 EASTERN DISTRICT OF NEW YORK

3 Case No. 18-71748-ast

4 - - - - - x

5 In the Matter of:

6 ORION HEALTHCORP, INC., et al.,

7 Debtor.

8 - - - - - x

9 Adv. Case No. 20-08049-ast

10 - - - - - x

11 HOWARD M. EHRENBURG, in his capacity as liquidating trustee

12 of Orion HealthCorp, Inc., et al.,

13 Plaintiffs,

14 v.

15 ARVIND WALIA; NIKNIM MANAGEMENT, INC.,

16 Defendants.

17 - - - - - x

18 Adv. Case No. 8-20-08052-ast

19 - - - - - x

20 HOWARD M. EHRENBURG in his capacity as LIQUIDATING TRUSTEE

21 OF ORION HEALTHCORP, INC., et al.,

22 Plaintiffs,

23 v.

24 ABRUZZI INVESTMENTS, LLC,

25 Defendants.

1 - - - - - x

2 United States Bankruptcy Court

3 290 Federal Plaza

4 Central Islip, New York 11722

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6 April 10, 2024

7 11:29 AM

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21 B E F O R E :

22 HON ALAN S. TRUST

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: UNKNOWN

1 HEARING re Recovery Of Certain Transfers

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3 HEARING re Summary Judgment

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25 Transcribed by: Rita Weltsch

1 A P P E A R A N C E S :

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6 BY: ANTHONY F. GIULIANO

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1 P R O C E E D I N G S

2 MR. ROSEN: Good morning, Judge.

3 THE COURT: Good morning.

4 MR. ROSEN: You're muted, Judge.

5 THE COURT: That will make for a short ruling
6 conference.

7 MR. ROSEN: Sorry. That's better. We can hear
8 you now.

9 THE COURT: I've been ruling for the last hour-
10 and-a-half. You guys didn't hear it?

11 MR. ROSEN: I'm so sorry. Can you do it again?

12 THE COURT: Sorry, my throat is sore now.

13 CLERK: Good morning. I am Alexis -- excuse me.

14 THE COURT: It's contagious.

15 CLERK: Good morning. I am Alexis Hennigan,
16 backup courtroom deputy for Chief Judge Alan S. Trust
17 presiding. These hearings are being recorded. Please speak
18 clearly. Once you hear your case called, please give your
19 appearance. And remember, before speaking please state your
20 name so we can get a clear record of who is appearing. All
21 parties not speaking, please put your phone on mute.

22 Case Number 20-08049, Howard M. Ehrenberg v.
23 Arvind Walia, et al, and Case Number 20-08052, Howard M.
24 Ehrenberg v. Abruzzi Investments LLC, et al.

25 THE COURT: Let's take appearances please. First

1 in Wallia.

2 MR. ROSEN: Good morning, Judge. Sanford Rosen,
3 Rosen & Associates. And we are counsel for the Defendants.

4 MR. SCHEIMAN: Good morning, Your Honor. Eugene
5 Sheiman with the Law Firm of Eugene Scheiman, co-counsel for
6 the Defendants.

7 MR. NOLAN: Good morning, Your Honor. Jeff Nolan
8 appearing on behalf of the Plaintiffs, Howard Ehrenberg, the
9 Trustee of the Orion Liquidating Trust.

10 MR. EHRENBURG: Good morning, Your Honor. I'm
11 Howard Ehrenberg, the liquidating trustee.

12 THE COURT: All right. Do we have counsel in
13 Abruzzi also?

14 MR. GIULIANO: Yes, Your Honor. Good morning.
15 Good morning, Your Honor. Anthony Giuliano for the
16 defendants in the Abruzzi matter.

17 THE COURT: All right. And Mr. Nolan, you're
18 still representing Mr. Ehrenberg in Abruzzi?

19 MR. NOLAN: Yes, Your Honor. Jeff Nolan appearing
20 on behalf of the plaintiff in the 08052 Abruzzi adversary on
21 behalf of the plaintiff.

22 THE COURT: All right. I'm going to start with
23 the ruling conference in 20-08052, Ehrenberg v. Abruzzi
24 Investments and John Petrozza.

25 This is the Court's ruling made in narrative form

1 under Rule 7052 and will include the Court's findings of
2 undisputed facts and conclusions of law. This is a core
3 proceeding under Title 28, Section 157(b)(2)(H). The venue
4 is proper in this court. Due and proper notice of the
5 various motions have been provided to the parties. The
6 Court has before it Plaintiff-Trustee's motion for summary
7 judgment, the Defendant's cross-motion for summary judgment,
8 and motion to strike, which raises various evidentiary
9 issues.

10 The Court has determined that the following facts
11 are not subject to a genuine dispute and are therefore
12 established in this case pursuant to Rule 56(g) of the
13 Federal Rules of Civil Procedure as incorporated by Rule
14 7056. The Court will also address the myriad evidentiary
15 objections raised by the Defendants to the extent that they
16 relate to the determination that this Court has made as to
17 what facts are not in genuine dispute.

18 This adversary proceeding revolves around one
19 payment, a \$250,000 transfer made to one or more of the
20 defendants. That transfer came prepetition from funds that
21 belonged to one or more of the debtors. Those funds of
22 \$250,000 were ultimately repaid, but repaid to a non-debtor
23 entity. However, for purposes of this summary judgment
24 motion, the only issue before the Court is the transfer that
25 was made of the \$250,000.

1 The Court has determined for the reasons that
2 follow to deny both parties' cross-motions for summary
3 judgment and will issue a trial scheduling order on the
4 pending claims.

5 The Debtors are the various multiple entities that
6 are listed in the adversary proceeding. I won't recite all
7 18 or so of them in the record, but they are apparent on the
8 face of the adversary.

9 Those entities prepetition operated a consolidated
10 enterprise of companies which were aggregated through a
11 series of acquisitions and operated in the healthcare sector
12 space, primarily in revenue and practice management.

13 At all times relevant, John Petrozza, who I will
14 refer to as Petrozza, has been a resident of the State of
15 Florida who did business in New York. His entity, Abruzzi
16 Investments, is a Limited Liability Company that had no
17 employees, no officers, and no directors but was managed by
18 Mr. Petrozza. I'll refer to them collectively as
19 Defendants. The only activity undertaken by Abruzzi was to
20 invest money on Mr. Petrozza's behalf.

21 Between 2015 and 2016, Mr. Petrozza considered
22 Paul Parmar, who was the primary principal of the Debtors,
23 as a close friend. Mr. Parmar was at all relevant times the
24 primary operating person, officer, and controlling
25 shareholder behind the Debtors.

1 In June of 2013, Mr. Petrozza commenced his
2 business relationship with the Debtors when he was
3 approached by Mr. Parmar and asked to invest \$4 million in
4 Constellation Healthcare Investment, which I'll refer to as
5 CHI, which is a non-debtor entity. CHI allegedly held an
6 ownership interest in the Debtor entity, Orion HealthCorp
7 Inc., which I will refer to as Orion. According to the
8 Defendants, their purpose in investing \$4 million in CHI was
9 to acquire 100 percent ownership interest in Orion. Mr.
10 Petrozza subsequently made the \$4 million investment in what
11 he believed was CHI. Additionally, he paid approximately
12 \$300,000 to Orion to cover IPO and expenses associated with
13 his investment. The money paid by Mr. Petrozza was sent to
14 Parmar and subsequently deposited into an IOLTA account held
15 at Robinson Brog Leinwald Greene Genovese & Gluck, referred
16 to as Robinson Brog, in the name of the non-debtor entity,
17 Constellation Health LLC.

18 In December of 2015, the United States District
19 Court for the Southern District of Texas entered a judgment
20 against Orion in the amount of \$194,185. That Southern
21 District of Texas judgement ultimately resulted in a proof
22 of claim being filed in the bankruptcy case and assigned as
23 Claim Number 1000. That judgment remained outstanding at
24 the time the Debtors filed for bankruptcy relief.

25 On March 9th of 2016, a lawsuit was filed against

1 the debtor entities Physician Practice Plus and CHT by a
2 plaintiff called Criteria LLC. On November 30th of 2017,
3 an adverse judgement was entered against those debtors,
4 Physician Practice and CHT, for some \$77,000. That
5 judgement also remained outstanding at the petition date.

6 In November of 2016 as part of a large-scale
7 private transaction involving taking CHT private, Mr.
8 Petrozza met with Mr. Parmar and the board of directors who
9 approved to go-private transaction so they could all make "a
10 gazillion dollars". Petrozza asserted he was an investor in
11 one or more of the debtors at the time of the go-private
12 transaction and wanted to receive a multiple on his \$4
13 million investment.

14 Along the way, several fictitious entities have
15 been created to represent ownership of the equity of CHT.
16 One of those entities was Lexington Landmark Services, Inc.,
17 which as far as Mr. Parmar knew, did not exist as a
18 legitimate business. While his name was signed on certain
19 documents, he claimed his signature was forged and that he
20 never gave Robinson Brog authority to receive monies on
21 behalf of Landmark Services.

22 Mr. Petrozza testified that on May 24th of 2017,
23 he asked Mr. Parmar for a personal loan of \$200,000. He
24 testified that he wanted the money in order to acquire a
25 lease to a certain property in Florida. The Court has not

1 been provided with any specifics concerning what property or
2 what lease.

3 In any event, on that same day, on May 24th, 2017,
4 Mr. Parmar directed partner Mitchell Greene at Robinson Brog
5 to wire \$250,000 from the Debtor's IOLTA account to Mr.
6 Abruzzi. Later that same day at 8:39 p.m., Parmar emailed
7 Mr. Greene to wire the \$250,000 and he did not care which
8 account the funds were taken out of.

9 The next day, May 25, Robinson Brog confirmed to
10 Mr. Parmar that the \$250,000 wire was in fact sent from the
11 Debtor's IOLTA account to Abruzzi. The funds were sent from
12 an account held in the name of Constellation Health/CHT
13 Closing. That transaction is what the pleadings refer to
14 and what the Court will refer to as the Transfer.

15 The Debtor's books and records evidence no
16 antecedent debt owed to the Defendants at any time during
17 the calendar year 2017. Mr. Petrozza could not explain why
18 he asked for \$200,000 but received \$250,000.

19 Mr. Petrozza further testified that shortly after
20 receiving the wire, the deal for the property that he was
21 working on in Florida fell through and he no longer needed
22 the money. He then advised his assistant, Lisa Basich, to
23 return the money to Mr. Parmar. Mr. Parmar then provided
24 wiring instructions to Ms. Basich, who then directed that
25 the funds be wired back as directed by Mr. Parmar.

1 On June 28th of 2017, \$250,000 was liquidated from
2 an investment account of Abruzzi and forwarded to Mr.
3 Petrozza's checking account. The next day, Mr. Abruzzi
4 wired \$250,000 to an entity called Sunshine Star LLC.
5 Sunshine Star was a newly-created entity, not a debtor
6 entity, but was created by or for the benefit of Mr. Parmar
7 and his at that time girlfriend, Elena Sartison. The
8 Debtor's books and records reflect no antecedent debt owed
9 to Sunshine Star during 2017.

10 In October of 2017, Sunshine Star closed the bank
11 account into which the \$250,000 had been wired. Defendants
12 admit that the transfer to Sunshine did not benefit any of
13 the Debtors and that the Defendants had provided no services
14 for the debtors.

15 The multiple entities which ended up filing for
16 bankruptcy on March 16, 2018 include the entities the Court
17 has described thus far. The Debtor's cases had been jointly
18 administered.

19 In July of 2018, Defendant Abruzzi Investment,
20 filed Claim Number 10062, identifying itself as a
21 shareholder of CHT. That day Defendant also filed Claim
22 10063, asserting it held a 49 percent member interest in
23 CHT.

24 This adversary proceeding was commenced in March
25 of 2020. The only transaction at issue for summary judgment

1 purposes, as I said, is the \$250,000 wire transfer sent to
2 Abruzzi on May 25, 2017. That transfer was from the funds
3 that belonged to one or more of the Debtors.

4 The parties have filed various pleadings
5 throughout this case, including an answer and counterclaim,
6 a plaintiff's motion for summary judgment, defendant's
7 cross-motion for summary judgment, and motions to strike
8 various of the evidentiary affidavits submitted by the
9 trustee. The various motions have been on submission with
10 the Court since May of 2022.

11 I will let the parties know it is not this Court's
12 practice to hold matters on submission for nearly that
13 length of time. So the Court's apologies to the parties for
14 the length of time it's taken to get to today's rulings.

15 Standards for summary judgment are well known by
16 the parties. The Court won't recite them. The central
17 issue is whether or not there exists genuine issues of
18 material fact -- whether or not there are genuine issues of
19 material fact that are in dispute such that judgment as a
20 matter of law can or cannot be awarded to either party.

21 Where cross-motions for summary judgment are
22 pending, the Court must make an independent valuation of
23 each motion separately.

24 Even though the Court is denying both summary
25 judgment motions because the matter will ultimately be

1 tried, I'm going to go ahead and give you my evidentiary
2 rulings on the affidavits that were presented to the Court
3 because the Court anticipates those affidavits will appear
4 again at the time of trial and there is no reason to redo
5 these objections.

6 With respect to the affidavit of Edith Wong and
7 the declaration of Frank Lazzara, Defendants have objected
8 under Rule 901 of the Federal Rules of Evidence, which is an
9 authentication requirement. The caselaw that addresses Rule
10 901 is fairly replete that the burden of authentication is
11 not particularly high. The Defendant objects to the Wong
12 affidavit and Lazzar declarations, including emails and
13 other business records that are identified in those
14 declarations because Ms. Wong and Mr. Lazzar did not
15 constitute witnesses with knowledge of the items that are
16 par of what they are claimed to be.

17 However, in a related adversary proceeding arising
18 out of the same Orion case, the same evidentiary objections
19 were raised by the same counsel as here. Anecdotally, the
20 district court in that action determined that personal
21 knowledge is not a requirement for the authentication of
22 written documents in the Second Circuit. See Aquila Alpha
23 v. Ehrenberg, 2023 WL 2164268 *4 (E.D.N.Y. Feb. 22, 2023),
24 affirmed by the Second Circuit, 95 F.4th 98.

25 The evidentiary objections to the Wong affidavit

1 and Lazzar affidavit for 901 purposes are overruled.
2 There's an adequate basis for the Court to accept those
3 documents as part of the summary judgment record, which
4 means that they can then become part of the trial record.

5 As to Ms. Sartison, the Debtor also -- the
6 Defendants also objected to her declaration which contained
7 the opening and closing bank statement of M&T for Sunshine
8 Star, again, based on authentication. Again, there is an
9 adequate basis that's set out in the Sartison affidavit to
10 authenticate those documents, including the Ms. Sartison's
11 declaration that "At the request and direction of Mr.
12 Parmar, I opened an account at M&T Bank for Sunshine Star
13 LLC."

14 As the creator of the bank account for Sunshine,
15 there is clearly enough circumstantial evidence to
16 authenticate the opening and closing statements of that very
17 same bank account. Refer you all back again to Aquila
18 Alpha. Both the District Court's opinion and the Second
19 Circuits affirmed this.

20 The Defendants also object to the Wong and Lazzar
21 declarations as inadmissible expert testimony. However,
22 there is no specific statement contained in either
23 declaration which should be stricken because it is providing
24 an opinion. Both of those declarations were offering fact
25 testimony and aren't proffered as expert testimony, so 703

1 is irrelevant.

2 As far as the Defendant's hearsay objection, that
3 too is overruled obviously under the well-known hearsay
4 exception for business records under 803(6). The records
5 attached are business records and the objection is
6 overruled. Hearsay objections and business records
7 exceptions have been routinely construed in favor of
8 admissibility due to the general trustworthiness of
9 regularly-kept records and the need for this type of
10 evidence in many cases, particularly cases which an
11 independent trustee is appointed to oversee the
12 administration of a case and/or litigation arising
13 therefrom. I'll refer the party to *Arista Records v. Lime*
14 *Group*, 784 F.Supp.2d 398, 421 and *Chevron Corp. v. Donziger*,
15 974 F.Supp.2d 362, 691-692.

16 With respect to the question of whether or not the
17 \$250,000 was property of the estate, the Court has
18 determined that as a matter of law, the funds transferred
19 were property of the bankruptcy estate -- would have been
20 property of the bankruptcy estate had the bankruptcy estate
21 had the bankruptcy case existed at the time that the
22 transfer occurred. The record is undisputed that the
23 Debtors utilized the IOLTA account at Robinson Brog to hold
24 large amounts of funds and for multiple transactions. Just
25 because the fund were held in an IOLTA account does not make

1 them not funds of the Debtors. New York Fiduciary Law
2 Section 4971 is clear that monies that are held by an
3 attorney or held in a fiduciary capacity from a client for a
4 client and/or for a designated beneficial owner. The
5 Debtors had control and custody over the funds while they
6 sat in the Robinson Brog account and had the power to direct
7 their disposition.

8 The Court finds no genuine dispute as to whether
9 or not the funds transferred to the Defendants are
10 recoverable as property of the estate.

11 In terms then of the substantive legal theory,
12 trustee moves forward first on Bankruptcy Code Section
13 548(a)(a), which allows the recovery of any property that
14 was transferred with actual intent to hinder, delay, or
15 defraud any entity to which the Debtor was or became liable,
16 as well as New York DCL Section 276, which provides that
17 every conveyance made and every obligation incurred with
18 actual intent to hinder, delay, or defraud present or future
19 creditors is fraudulent. The two statutes are adequately
20 identical for the Court to conduct one analysis of both.
21 See Janitorial Close-out City Corp., 2013 WL 492375 *5
22 (Bankr. E.D.N.Y. 2013).

23 Transfer may be avoided either under 548(a) of the
24 Bankruptcy Code or New York DCL 276. If the Debtor had an
25 interest in the property transferred, which is undisputed

1 here -- as to which there is no genuine dispute here. The
2 transfer occurred within two years of the petition date.
3 That is undisputed here. And the transfer was made with
4 actual intent to hinder, delay, or defraud a creditor.
5 That's where the factual dispute arises.

6 The trustee has the burden of establishing the
7 actual intent of the transfer or debtor by clear and
8 convincing evidence. See *In re Jacobs*, 394 B.R. 646, 658
9 (Bankr. E.D.N.Y. 2008).

10 Because it is difficult to find direct evidence of
11 actual fraudulent intent, courts in this circuit look to
12 certain badges of fraud which can constitute circumstantial
13 evidence of fraudulent intent. See *In re Kaiser*, 722 F.2d
14 1574, 1582-1583 (2d. Cir. 1983). The parties generally
15 agree on what those badges of fraud can include. Lack of
16 consideration, close association between the parties, the
17 financial condition of the transferor, chronology of events
18 and transactions under inquiry.

19 The Court has determined that a genuine issue of
20 fact disputes as to whether or not there was adequate
21 consideration for the transfer of the \$250,000. In the
22 shortest way to state it, Plaintiff asserts that it was
23 simply a transfer for no consideration. The Defendant
24 asserted it was a loan, and a loan supported by a promise to
25 repay.

1 The Defendants rely on certain text messages to or
2 from Mr. Petrozza where he requests the \$200,000 in exchange
3 for a promise to repay it. The record is clear though that
4 there is no signed promissory note. There doesn't appear to
5 be any interest charged for the loan or any collateral
6 provided.

7 Based upon the entire record before the Court,
8 there is a genuine dispute of material fact as to whether or
9 not there was consideration for the transfer at the time the
10 transfer was made and whether or not that consideration is
11 adequate.

12 On the close relationship, there is a close
13 relationship in this record between Petrozza and Mr. Parmar
14 for the reasons that I've already outlined. There doesn't
15 appear to be any retention of possession or benefit of the
16 property by the Debtor once transferred. Funds went to
17 Petrozza. Petrozza then paid the funds back in the
18 equivalent amount that he received, although he didn't pay
19 it into the right entity.

20 As far as the financial condition of the Debtor
21 before or at the time of the transfer, the undisputed
22 evidence before the Court based upon an expert opinion from
23 B. Reily is that the Debtors were insolvent on the measuring
24 date, the probative date, the date of the transfer. So
25 insolvency condition here exists.

1 In addition, the record is clear that there was
2 the Southern District of Texas judgement outstanding at the
3 time -- prior to the time that the transfer was made and the
4 FBI had seized over \$20 million from the IOLTA account prior
5 to the time of the transfer.

6 Questions certainly do exist concerning the
7 overall chronology of events and whether or not the
8 transaction should have been considered legitimate at the
9 time that it was made, but that is a fact issue for the
10 court to determine after trial.

11 With respect to the Trustee's cause of action for
12 a constructively fraudulent transfer and New York DCL 273-a,
13 New York law is clear that any conveyance made without fair
14 consideration when debtor is a defendant in action for money
15 judgement and a judgement has been docketed against him can
16 be set aside as a constructively fraudulent transfer. To
17 prevail, the Plaintiff must establish that the conveyance
18 was made without fair consideration and for the same reasons
19 that I discussed in connection with the actual fraudulent
20 transfer claim. The Court has found a question of fact as
21 to whether or not there was fair consideration for the
22 transfer at the time it was made. The other elements under
23 273-a have been satisfied as a matter of law by the trustee.

24 Again, as I've noted, the expert insolvency report
25 of Craig Jacobson from B. Reily is unrebutted in the summary

1 judgement record. So Orion was insolvent on May 25, 2017.

2 The fair consideration under Section 272 of DCL,
3 the Court has also found a question of fact as to whether or
4 not the consideration -- whether consideration was provided
5 and whether that consideration was fair for 272 purposes.
6 The Court has also found a question of fact as to whether or
7 not the defendants were operating in good faith at the time
8 that the transfer was made. See Sardis v. Frankel, 113
9 A.D.3d 135, 141-142.

10 So for all of those reasons, both motions for
11 summary judgement have been denied. And again, the motion
12 to strike as to the evidence, the Court has already ruled on
13 that.

14 The Court has also noted in the pleadings that the
15 parties have a serious disagreement about the impact of
16 Section 550 of the Bankruptcy Code. 550 is only triggered
17 once a transfer has been avoided. I won't spend any time
18 talking about 550 because to this point no transfer has been
19 avoided so there is no reason to talk about who might
20 ultimately have liability for the transfer if it were set
21 aside.

22 I'm going to set a trial on the claim in the
23 adversary proceeding. As I said, for Rule 56(g) purposes,
24 the facts that I've identified as undisputed are undisputed
25 for trial purposes. The trial will be limited to the

1 matters on which the Court stated there to be genuine issues
2 of material fact. The Court's intention is to set the
3 matter for trial on July 24th of this year so that the
4 matter can be tried this summer. The Court will issue a
5 trial scheduling order consistent therewith.

6 Mr. Nolan, I'm going to ask you and Mr. Giuliano
7 to work on a short form of order denying both summary
8 judgment motions. You don't need to repeat all of the
9 evidentiary rulings that I've made on the record, but they
10 will -- as I said, those evidentiary rulings will stand
11 should the same declarations and affidavits be submitted at
12 the time of trial, which I suspect they might well be.

13 All right?

14 MR. NOLAN: Yes, Your Honor. Thank you.

15 MR. GIULIANO: Thank you, Your Honor.

16 THE COURT: Thank you both.

17 THE COURT: All right. I'm going to turn now back
18 to 20-08049, Trustee v. Walia. This too is an adversary
19 proceeding seeking recovery of certain transfers. The
20 causes of action set out in the adversary proceeding are
21 core proceedings, which this Court may hear and determine
22 under Title 28, Section 157(b)(2) and the orders of
23 reference in effect in the Eastern District of New York and
24 is proper before this Court.

25 As with the prior adversary proceeding, these

1 matters have been pending for some time. And again, it's
2 not the Court's practice to let matters fester for this
3 long. Apologies to the parties for the length of time it's
4 taken to get to today's ruling.

5 This too is a ruling in narrative form. And under
6 Bankruptcy Rule 7052, it includes the Court's findings of
7 undisputed facts as well as conclusions of law in accordance
8 with 2056(g) of the Federal Rules of Civil Procedures
9 incorporated by Bankruptcy Rule 7056, the facts that are
10 stated by this Court to be undisputed are undisputed for
11 purposes of the ultimate trial.

12 This case involves two transfers sought to be
13 recovered by the trustee through summary judgement. And
14 there's also a partial summary judgement motion by the
15 Defendants. I'll address these together.

16 First, the trustee seeks recovery of a \$2.5
17 million wire transfer made on April 15 of 2016 from an M&T
18 bank account of the Debtors, the Debtor, CHT, that was made
19 to a JP Morgan Chase account, Chase bank account of the
20 defendant, Niknim. A transfer was made at the direction of
21 Mr. Walia and was made in connection with -- arguably made
22 in connection with an asset purchase transaction, which I'll
23 describe in more detail and defined as the Porteck
24 transaction.

25 The second claim is to recover a \$1,520,000 wire

1 transfer made in June of 2017 from the Debtor's Robinson
2 Brog IOLTA account, law firm IOLTA account. That transfer
3 was sent to a JP Morgan Chase bank account of Niknim. I'll
4 refer to that as the second transfer and the \$2.5 million
5 wire as the first transfer. The parties have provided an
6 extensive set of -- extensive joint set of undisputed facts.
7 The parties then separately provided their own proposed
8 undisputed facts.

9 Trustee claims that both the first transfer and
10 the second transfer either intentional fraudulent transfers
11 and/or constructive fraudulent transfers. The defendants in
12 their partial summary judgement motion essentially seek
13 dismissal of the trustee's claims on a standing theory that
14 the trustee lacks standing to use Section 544 of the
15 Bankruptcy Code to invoke the remedies of state law
16 creditors in the New York DCL.

17 For the reasons to follow, the Court is denying
18 the trustee's request for summary judgment on the first
19 transfer, being the \$2.5 million wire transfer made in April
20 of 2016, is granting summary judgment to the trustee on the
21 second transfer claim, the \$1,520,000 transfer made to
22 Niknim in June of 2017. All other relief sought by the
23 Trustee is denied and the Defendant's motion for partial
24 summary judgement is also denied.

25 I am going to direct the parties to return to

1 mediation and I'm going to set a trial date in June of 2024.
2 But I didn't want to jump past that part before I go through
3 the elaborate ruling. But this case will also be set for
4 trial on the remaining claims on July 24th, but I am
5 directing the parties to return to mediation.

6 At all relevant times, the Debtors were a
7 consolidated enterprise of several companies aggregated
8 through a series of acquisitions and operating in the
9 healthcare space, primarily in revenue and practice
10 management services for physician practices. The debtors
11 are as stated in the pleadings. I won't read all of their
12 names back into the record, but they do include the entity
13 Constellation Healthcare Technologies, which is a debtor
14 that I'll refer to as CHT. CHT maintained a checking
15 account at all relevant times at M&T Bank.

16 In 2015, Mr. Paul Parmar was the chief executive
17 officer of CHT and was looking to acquire a medical billing
18 company. He became interested in purchasing Porteck
19 Corporation, which I will refer as Porteck. See joint
20 statement Paragraph 26. At that time, Porteck was a
21 technology services company in the healthcare space owned,
22 controlled, and operated by Defendant, Arvind Walia. Mr.
23 Walia was its CFO.

24 At that time, Porteck had two business lines, AHMS
25 and PC Advantage, which I will refer to as PCA, which both

1 provided medical billing services.

2 Niknim Management Inc, which I call Niknim, is a
3 New York corporation registered and operating from Mr.
4 Walia's residence on 27 Kettlepond Road in Jericho, New
5 York. Mr. Walia was the sole officer, employee, and
6 shareholder of Niknim. Mr. Walia formed Niknim to manage
7 his consulting work, take care of his personal investments,
8 and family trust. Niknim followed no corporate formalities
9 and maintained no resolutions of shareholders or minutes.

10 In March of 2015, the debtor entity Physician
11 Practices Plus acquired the assets of Porteck pursuant to an
12 asset purchase agreement executed that same month. I'll
13 call that the Porteck APA. The sellers were Porteck, Walia,
14 the Walia Trust, and the Janaminder Trust. Mr. Walia
15 executed the APA on behalf of himself and the Janaminder
16 Trust and Porteck. The Walia Truste never signed the APA.

17 Mr. Parmar executed the APA on behalf of the
18 debtor, Physicians Practice. The APA provides for a
19 purchase price of \$12.8 million even though Mr. Walia had
20 agreed in writing to sell the Porteck assets for \$10.8
21 million. The purchase price was juiced up -- my phrase, not
22 the parties. The purchase price was juiced up because Mr.
23 Parmar told Mr. Walia that he needed to add \$2 million as
24 "deal fees". Joint Fact 35.

25 Mr. Walia was unconcerned about the deal price

1 being juiced up, Joint Fact 37.

2 In fact, Mr. Walia testified in his deposition
3 that he really paid no attention to what Mr. Parmar was
4 doing when the APA purchase price was set at \$2 million more
5 than the parties had agreed. When asked when you were
6 negotiating with Mr. Parmar or Orion, "Was the purchase
7 price supposed to be \$10.8 million?"

8 Answer, "Correct."

9 Question, "When did it change to \$12.8 million?"

10 Answer, "At some point Mr. Parmar stated there are
11 fees to close this deal that have to be included in the
12 purchase price. I said as long as my share of the purchase
13 price doesn't change, it doesn't concern me." That's Page
14 134 of Mr. Walia's deposition.

15 The evidence in the record is that the actual deal
16 fees, the fees paid to the abstract business advisor's
17 broker, was \$192,000. So one-tenth or so of the nearly \$2
18 million by which the purchase price was juiced up.

19 In terms of the value of the assets acquired by
20 the debtor entity, the net asset value of the AHMS business
21 was \$1.35 million. The assets were valued at \$2.35 million,
22 but there was still an outstanding \$1 million note. The
23 value of the PCA side was \$2,546,000, but there was still an
24 almost half-million note outstanding, an almost \$1.9 million
25 loan outstanding. So the actual value of the assets as

1 acquired from Porteck at the time that they were acquired
2 was \$1.824 million being the net asset value of AHMS and the
3 net asset value of PCA.

4 Despite the written record of the asset valuation,
5 Mr. Parmar and Mr. Walia agreed to the value of the assets
6 being \$10.8 million and apparently was five times the 204
7 EBITDA of \$2.2 million. And again, that five times multiple
8 is before the \$2 million was added into the transaction.

9 Closing did occur in March of 2015. Bank records
10 provided in the summary judgement evidence memorialized a
11 wire of \$9.8 million from the debtor Constellation
12 Healthcare Technologies to the IOLTA account at Robinson
13 Brog, which was used to close the Porteck sale.

14 Of that \$9.8 million, \$6.8 million was wired on to
15 Mr. Walia and \$3 million went sideways in the vernacular to
16 another non-debtor entity controlled by Mr. Parmar called
17 First United Health.

18 The Court notes this portion of the extensive
19 factual background to the extent that it will ultimately
20 relate to the Court's conclusions after trial as to whether
21 or not there was an intentionally-fraudulent transfer in the
22 second stage of the transaction because the trustee is not
23 seeking to recover the \$6.8 million paid to Walia in the
24 Porteck transaction.

25 Once the Porteck deal closed shortly thereafter in

1 June of 2015, Mr. Walia was installed as the chief executive
2 officer of the Debtor's main operating company, Orion Health
3 Corp., and became the chief technology officer of
4 Constellation Healthcare Technologies. He continued to
5 serve in those capacities through the fall of 2018.

6 While Mr. Walia was CEO of Orion and CTO of
7 Constellation Health Technologies, being on or about April
8 15 of 2016, the debtor, Constellation Health Technologies,
9 transferred \$2.5 million from its JP Morgan account to
10 Niknim. That's what I referred to earlier as the first
11 transfer.

12 The dispute between the parties seems to center
13 around a portion of the asset purchase agreement which
14 concerns the alleged balance of the purchase price and the
15 need for funds to be escrowed in accordance with Section 1.6
16 of the APA. In his affidavit at Docket 64, Mr. Walia
17 testifies that the stated purpose of the escrow arrangement
18 was to protect the rights of Physicians Practice, the actual
19 acquirer, as purchaser under the Porteck APA to receive \$2.5
20 million to the extent such funds were required to indemnify
21 Physicians Practice.

22 As a practical matter, the arrangement was not
23 necessary to protect the buyer because it simply withheld
24 payment of the \$2.5 million.

25 As far as what the parties' written agreement

1 calls for, however, Section 1.6 of the APA provides that for
2 purposes of partially-securing the seller's obligations, the
3 amount of \$2,500,000 shall be delivered by the buyers at
4 closing to the escrow agent by wire transfer of immediately
5 available funds pursuant to an escrow agreement
6 substantially in the form attached as Exhibit A to the APA.
7 Other conditions are stated in the APA concerning what the
8 escrow agreement would look like.

9 Section 1.6 clearly required certain conditions of
10 the escrow including that it be established and that it be
11 funded upon occurrence of certain events. However, no
12 escrow agreement was ever executed and no escrow account was
13 ever established. See Joint Facts 46 through 49.

14 Despite Walia's assertion that the \$2.5 million
15 was owed to him or his company, the books and records of the
16 Debtor reflect no antecedent debt at the year ending
17 December 2015. There is no antecedent debt reflected --
18 there is no debt reflected on the books and records as being
19 owed to Walia or Niknim. The Debtor's books and records
20 reflect no debt being owed as a result of the Porteck
21 transaction as of the end of 2015.

22 The Debtor's 2016 books and records did not
23 evidence the satisfaction of any antecedent debt of \$2.5
24 million or any increase in the net assets of the Debtors as
25 a result of that \$2.5 million transfer.

1 The Trustee asserts that the \$2.5 million transfer
2 was fraudulent based in part on an email that Mr. Parmar
3 sent to Mr. Walia on the date of the transfer, stating, "I
4 am willing to give you \$3.5 million in return for you to
5 allow me to structure it properly internally, which requires
6 I close the file with the \$2 million payment."

7 On the same day as that email, the Debtor
8 transferred \$2.5 million from its M&T account, the M&T
9 account of CHT to the JP Morgan account of Niknim. That
10 transfer was sent at Mr. Walia's direction. The parties
11 concede that that transfer occurred within two years prior
12 to the petition date.

13 The second transfer at issue involves a 2017
14 transaction and agreement under which Mr. Walia agreed to
15 sell to Mr. Parmar or a designated entity a software company
16 that Mr. Walia indirectly owned called AllRad Direct LLC,
17 which at that time was a successful software company. Mr.
18 Walia owned AllRad indirectly through his ownership of an
19 entity, Object Tech Holding LLC.

20 The sale was memorialized by a membership interest
21 purchase agreement, or MIPA, dated June 2017 between Object
22 Tech as seller and Physicians Healthcare Network Management
23 Solutions as buyer. That entity, Physicians Network
24 Solutions, is not and was not one of the Debtors, but was
25 again a third party entity owned or controlled by Mr.

1 Parmar.

2 The MIPA required a due diligence report and the
3 negotiations required the diligence report to be prepared in
4 connection with the sale, but that due diligence report was
5 never completed. The MIPA required various schedules to be
6 provided. Those schedules were never completed. The MIPA
7 had multiple sections which were never completed, such as
8 1.3, earnout payments; 1.4, discharge of debts and
9 liabilities, maintenance of working capital. The MPIA also
10 called for certain revenue projections, balance sheets or
11 statements of assets and liabilities to be provided. Those
12 were never provided. State and federal tax returns that
13 were called for under the MIPA from the sellers were never
14 provided. And the Debtor's board of directors never
15 approved the purchase. See Joint Statements of Fact 60 to
16 62, 66, 68, and 69.

17 Despite these deficiencies, the MIPA sale closed
18 in June of 2017 and Debtor's funds, \$1,520,000, was wired
19 out of the Robinson Brog IOLTA account to the Niknim bank
20 account at JP Morgan Chase. Correspondingly, all of the
21 shares of AllRad were transferred, but transferred to the
22 non-debtor entity, Physicians Network Solutions. No assets
23 were ever transferred in connection with the AllRad Object
24 Tech transaction to any of the debtors.

25 At no point during 2017 did any of the debtors'

1 books and records evidence an antecedent debt of \$1,520,000
2 or any other debt owed to either of the defendants in
3 connection with Object Tech or AllRad. In fact, the
4 debtors' books and records do not evidence the satisfaction
5 of any antecedent debt or increase in net assets of the
6 debtors through the acquisition of the interest in Object
7 Tech or AllRad. The second transfer occurred within eight
8 months prior to the petition date, so well within the two-
9 year period.

10 With respect to the Court's legal determinations,
11 again, I won't recite the standard for summary judgment.
12 It's well-known by the parties. The Court has determined
13 that there are certain material facts which are not disputed
14 and other material facts as to which a genuine dispute does
15 exist. I've set out under Rule 56(g) the facts which are
16 undisputed for summary judgment purposes. And therefore for
17 the remaining portions of the adversary proceeding are also
18 undisputed for trial purposes.

19 I'm first going to turn to Sections 548(a) of the
20 Bankruptcy Code for actual fraudulent transfer and New York
21 DCL 273-A. Bankruptcy Code Section 548(a)(1)(B) allows a
22 trustee to avoid any transfer of an interest that was made
23 two years prior to the petition date if it was an actual
24 fraudulent transfer. New York DCL Section 273(a) provides
25 that every conveyance made without fair consideration when

1 the person making it is a defendant in an action for money
2 damages or a judgement in such action has been docketed
3 against him, it's fraudulent as to the plaintiff in that
4 action without regard to the actual intent of the defendant if
5 the debtor fails to satisfy the judgement. See Lyman
6 Commerce v. Lung, 2015 U.S. District LEXIS 51447, *17
7 (S.D.N.Y. 2015).

8 Whereas here a judgment has already been docketed
9 under New York DCL 273-A, there is no requirement that the
10 transfer at issue have rendered the debtor insolvent. See
11 Cadle Company v. Newhouse, 2002 U.S. Dist. LEXIS 15173
12 (S.D.N.Y. Aug. 16, 2002).

13 Here, there was a final judgment entered in the
14 Southern District of Texas in excess of \$200,000 in December
15 of 2015. That judgement preceded both of the transfers at
16 issue and remained outstanding at the time of the bankruptcy
17 petitions. Proof of claim was filed on behalf of that
18 judgement creditor. Thus that federal court judgment is
19 sufficient as a matter of law to satisfy DCL 273-A as to any
20 transfer which was made which lacked fair consideration.

21 Trustee has also alleged under New York DCL 273,
22 274 and 275 that both transfers were not made in good faith
23 or for fair consideration. Conveyance is vulnerable to
24 attack by a creditor without regard to the actual intent of
25 the transferor if the -- without -- if the transfer is

1 considered to have been in constructive fraud of creditors.
2 See Laco X-Ray, 88 A.D.2d 425.

3 The transfer is constructively fraudulent if made
4 without fair consideration of any if the following
5 conditions are met. The transferor is insolvent or would be
6 rendered insolvent by the transfer in question. There is no
7 solvency analysis in this adversary proceeding. Transferor
8 is engaged in or is about to engage in a transaction which
9 has a reasonably small capital or the transferor believes it
10 will incur debt beyond its ability to pay.

11 Even if there is fair consideration, a transfer is
12 constructively fraudulent in the absence of good faith on
13 the part of both the transferor and the transferee. CIT
14 Group v. 160-09 Jamaica Avenue, 25 A.D.3d 301, 303.

15 This Court, as I've stated at the outset, has
16 determined that genuine issues of material fact exist as to
17 whether or not the first transfer can be avoided either as
18 an actual intent fraudulent transfer or as a constructive
19 fraudulent transfer.

20 Those issues include whether or not the first
21 transfer was in fact a payment due in connection with the
22 Porteck sale despite the noncompliance with the escrow
23 provisions of a purchase agreement.

24 However, there are no genuine issues of material
25 fact as to the second transfer at least as to the direct

1 payment to the defendant, Niknim. It's undisputed that the
2 second transfer of funds that belonged to the debtor. Those
3 funds were paid to a third-party corporation in connection
4 with a transaction by which assets were conveyed to a non-
5 debtor entity, being Physician Network Solutions, an entity
6 controlled by Mr. Parmar.

7 Physicians Network was owed no antecedent debt.
8 Niknim was owed no antecedent debt, and there is no
9 consideration in that transaction for the debtors.

10 As far as the intentional fraudulent claim under
11 548, Bankruptcy Code Section -- excuse me. That section
12 allows the trustee to avoid any transfer made within two
13 years before the petition date if made with actual intent to
14 hinder, delay, or defraud any creditor to which the debtor
15 was or became liable.

16 Similarly, under New York DCL 276, every
17 conveyance made or obligation occurred with actual intent to
18 hinder, delay, or defraud present or future creditors is
19 voidable. As this Court had stated in (indiscernible)
20 closeout the statutes are -- the statutes are analogous and
21 can be analyzed together.

22 An actual fraudulent transfer can be made -- can
23 be found, excuse me, where a debtor had an interest in the
24 property transferred, which it did in both transfers. The
25 transfer occurred within two years of the petition date.

1 Again, it did in both transfers. But the transfer was made
2 with actual intent to hinder, delay, or defrauded a
3 creditor. See In re Jacobs, 394 B.R. 646, 658-653 (Bankr.
4 E.D.N.Y. 2008), which requires the trustee to establish
5 actual intent of the transferor by clear and convincing
6 evidence.

7 As typically in fraudulent and actual fraud
8 settings, the courts typically look to various badges of
9 fraud. I'll highlight those that the Court has considered
10 here for trial purposes.

11 First is as far as lack or inadequacy of
12 consideration. This Court has already noted in respect to
13 the Porteck transaction that the agreed sale price of \$10.8
14 million was juiced up by \$2 million at Mr. Parmar's request.
15 Mr. Walia was aware of the inflation of the purchase price
16 and essentially didn't care.

17 As I've already noted, the APA under the Asset
18 Purchase Agreement for Porteck established various
19 requirements for an escrow agreement and the funding of an
20 escrow account, none of which occurred. Various disclosure
21 documents, due diligence requirements were required in the
22 purchase transaction. None were provided.

23 As far as the AllRad transaction is concerned, the
24 Debtors gave up \$1.52 million and got nothing in exchange.

25 As far as close or family relationship, it's clear

1 that Mr. Parmar and Mr. Walia were both officers and
2 insiders at the time of both transfers. They knew each
3 other going back to at least 2015. They both served in the
4 highest level of officer positions at the debtors Orion and
5 CHT. Mr. Walia was clearly an insider of the debtors at the
6 time of both the first and second transactions.

7 On financial condition, there's no solvency
8 analysis here so the Court is not passing on solvency at the
9 time of the transfer.

10 The Court has determined that genuine issues of
11 material fact exist as to whether the first transfer, the
12 \$2.5 million in Porteck, can be avoided as an intentionally
13 fraudulent transfer either under the Bankruptcy Code or New
14 York DCL.

15 Again, as to defendant Niknim in the second
16 transfer, there are no genuine issues of material fact.
17 There was no fair consideration in that transaction for the
18 debtor estate for the \$1.52 million.

19 I want to turn just for a couple of minutes to the
20 recovery theory of the trustee against the defendants Walia
21 and Niknim. Not the liability theory. Liability theories
22 are clear, but the recovery theory.

23 With respect to the \$1.52 million fraudulent
24 transfer, the trustee seeks recovery both against Niknim,
25 who received the money, and defendant Walia given his

1 control position at Niknim.

2 Under New York law, a creditor may recover money
3 damages against parties who participated in a fraudulent
4 transfer and are either transferees of the assets or
5 beneficiaries of the conveyance. See *Tae H. Kim v. Jisung*
6 *Yoo*, 311 F.Supp.3d 598, 613 (S.D.N.Y. 2008) and
7 *Cadle Co. v. Newhouse*, 74 F. App'x 152, 153 (2d Cir. 2003).

8 The Court has determined that genuine issues of
9 material fact exist as to whether Mr. Walia individually
10 adequately participated in or adequately benefitted from the
11 \$1.25 million payment that was made to Niknim. So summary
12 judgment is not granted on that portion.

13 The trustee has also asserted that defendants
14 Walia and Niknim were alter egos of each other and should be
15 held jointly severally liable on an alter-ego veil piercing
16 analysis. New York law is clear that alter ego liability
17 exists when a parent or owner uses the corporate form to
18 achieve fraud for when the corporation has been so dominated
19 by an individual or another corporation, that separate
20 identity has been so disregarded that -- excuse me, that its
21 separate identity should be disregarded. See *City of Almaty*
22 *v. Ablyazov*, 2019 U.S. Dist. LEXIS 55183, *14 (Bankr.
23 S.D.N.Y. 2019). Courts consider factors such as whether or
24 not the owner of the corporation has abused the privilege of
25 doing business in corporate form, whether there has been a

1 failure to adhere to corporate formalities, inadequate
2 capitalization, comingling of assets, or use of corporate
3 funds for personal use. See East Hampton Union Free School
4 District v. Sandpebble Builders, 66 A.D.3d 122, 127.

5 The Court is not prepared to conclude that the
6 trustee has met his burden of proof as a matter of law on
7 alter ego liability of Mr. Walia in connection with the
8 \$1.52 million transaction with Niknim.

9 That said, the Court has found for Rule 56(g)
10 purposes certain alter ego facts to be undisputed and
11 therefore found for purposes of trial. Those are Niknim was
12 incorporated in 2015 and at all times had a single employee,
13 officer, and shareholder, Mr. Walia. Niknim was formed to
14 manage Walia's consulting work, his personal investments,
15 and his family trust. Niknim was paid by the Debtor as a
16 personal accommodation to Mr. Walia for tax purposes.

17 Walia was receiving money from Orion in 2017,
18 which he would deposit at his convenience either into his
19 personal checking account or an account of Niknim.

20 In 2016 and 2017, Walia would deposit monies from
21 his other investments, his family trust and his wife's
22 account into Niknim bank account. Walia used the Niknim
23 account to pay personal expenses of his such as pool
24 maintenance, purchasing suits, salon treatments, voice
25 lessons, homeowner dues, and car payments. Niknim followed

1 and observed no corporate formalities and maintained no
2 resolutions or shareholder minutes. Niknim was initially
3 capitalized with one or two-thousand dollars. So even
4 though the Court has not found as a matter of law alter ego,
5 those facts are established for purposes of trial.

6 I'll turn briefly now to the defendant's partial
7 summary judgement motion. As stated near the outset, it's
8 essentially arguing that the trustee lacks creditor standing
9 under Section 544 to invoke the New York DCL provisions.

10 The rights available through 541(b) of the
11 Bankruptcy Code are limited to those of an existing
12 unsecured creditor and are derivative of the rights of an
13 actual unsecured creditor. See Lippe v. Bairnco Corp., 225
14 B.R. 846, 852 (S.D.N.Y. 1998).

15 Creditors seeking recovery through Section 544(b)
16 can only attack transfers to the extent a creditor with an
17 allowable claim could do so under New York law. Here, it's
18 clear and undisputed that the trustee has adequate standing
19 to utilize Section 544(b) and thereby use the rights of
20 creditors under New York DCL Law given the existence of
21 unsatisfied judgements at the time of each of the two
22 transfers.

23 In addition, the Trustee has noted in its summary
24 judgment pleadings the existence of over \$100 million of
25 unsecured claimants that existed at the time of each of the

1 transfers. So the request for summary judgment of the
2 defendants is also denied.

3 I'm going to direct, Mr. Nolan, that you and Mr.
4 Rosen and Mr. Scheiman work on a form of order. It simply
5 needs to recite granting the relief and denying the relief
6 as set out on the record today. It doesn't need to be a
7 significant restating of the why reasons. The why reasons
8 are all part of the record of an order granting the summary
9 judgment relief that was granting and denying all remaining
10 relief. As I stated, I am directing the parties to return
11 to mediation. I know that you all went, didn't settle.
12 Hopefully with the resolution, at least partial resolution
13 of some of the issues today, the parties can engage in a
14 more meaningful effort to resolve the claims for which
15 liability has been determined and those that remain.

16 I'm also going to set a trial down to start July
17 24th. I'll set my pretrial requirements. While that's only
18 90 days from today but also several years from when the
19 litigation started, I think you all generally know what
20 you're going to bring to the trial. So there's not a lot of
21 reinventing of wheels that need to be done. I expect I'll
22 see the same declarations and probably not a whole lot more,
23 but I'll get to observe witness testimony at least through
24 cross-examination and make the necessary credibility
25 assessments that I need to make to close the gap on the

1 issues that the Court was not prepared to make dispositive
2 findings as a matter of law today.

3 All right? Anything else we need to address today
4 then on this adversary proceeding?

5 UNIDENTIFIED SPEAKER: I guess just a couple
6 points of clarification, Your Honor. Do we want to set a
7 date -- the Court is setting a date by mediation in like the
8 next 30 days?

9 THE COURT: Thank you. So the Court's
10 anticipation was within 30 days from now you would go back
11 to the mediator. I don't remember who you all used before.
12 You can go back to him or her, you can start over with
13 someone different. It seems to be more cost-effective and
14 time-efficient to go back to who you all used before, but I
15 will leave that to the parties.

16 I'm envisioning that as something that can be done
17 in the next 30 days so that you essentially have -- it's
18 three chunks of 30 days. You've got 30 days to try to
19 settle it, 30 days to prepare for whatever else you need to
20 submit for pretrial purposes, and then 30 days to prepare
21 for the trial. Those are somewhat permeable deadlines, but
22 I think that give you all time to focus on settlement before
23 refocusing on the trial.

24 UNIDENTIFIED SPEAKER: Okay. And as far as trial,
25 Your Honor, are you in Brooklyn now?

1 THE COURT: I am in Central Islip.

2 UNIDENTIFIED SPEAKER: Okay. So we have the
3 opportunity to be present, or are we doing it by Zoom or...

4 THE COURT: Trial will be in-person under judicial
5 conference protocol since we have exited the Zoom -- exited
6 the COVID period. Because I anticipate I'm going to be
7 taking live testimony, that would be taken live and in-
8 person. So the witnesses will need to be here in my
9 courtroom. I will use my ongoing protocol that I hold my
10 trials in Central Islip and I hold my settlement conference
11 in Brooklyn if that's of any help to you, although July on
12 Long Island tends to be a very beautiful time of year I am
13 told.

14 UNIDENTIFIED SPEAKER: You're told. All right.

15 THE COURT: Some of you may be on your way to or
16 from other summer residences that you maintain, borrow, or
17 lease out further east from the courthouse. So it's a
18 beautiful time of year on Long Island and not so bad in
19 Central Islip.

20 UNIDENTIFIED SPEAKER: It's a beautiful time to be
21 there, Judge.

22 THE COURT: And I'll set aside adequate time to
23 get the case tried. We're holding July 24th and July 25th,
24 but I gave the 24th, part of that morning to the other
25 adversary proceeding.

1 UNIDENTIFIED SPEAKER: Okay. Judge, I just want
2 to say thank you to you and your chambers for the many, many
3 accommodations in terms of the adjournments of the hearings
4 on the motion. So thank you.

5 UNIDENTIFIED SPEAKER: I would like to add my
6 thanks also, Your Honor. I appreciate it very much. And I
7 have nothing further to add.

8 THE COURT: Well, I know you all prefer hearing
9 yourselves argue than me rule, but I know we had teed this
10 up for summary judgment arguments. But again, given the
11 delays that have just happened in the adversary proceeding
12 and my desire for it no longer to sit without resolution,
13 you'll still have time to practice your well-honed skills in
14 my courtroom examining witnesses as opposed to arguing to
15 that little dot on your computers that constitutes a camera.
16 So you'll have plenty of time to mix it up live out here
17 unless you take it out of my hands and resolve it. All
18 right?

19 UNIDENTIFIED SPEAKER: Well, we'll certainly try
20 to, Your Honor.

21 THE COURT: All right. So then we'll be adjourned
22 -- yes.

23 UNIDENTIFIED SPEAKER: Thank you very much.

24 THE COURT: Thank you all. (indiscernible) we'll
25 go off the record. Thank you.

(Whereupon these proceedings were concluded)

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C E R T I F I C A T I O N

I, Rita Weltsch, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Rita Weltsch

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: April 25, 2024

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served via U.S. Mail and the Court's Electronic Filing System to:

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/s/ Rolanda Mori

Rolanda Mori

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

ORION HEALTHCORP, INC. *et al.*,

Debtors.

HOWARD M. EHRENBERG, IN HIS
CAPACITY AS LIQUIDATING TRUSTEE OF
ORION HEALTHCORP, INC., ET AL.,

Plaintiff,

v.

ARVIND WALIA; NIKNIM MANAGEMENT
INC.,

Defendants.

Chapter 11

Case No. 18-71748 (AST)

Adv. Proc. No. 20-08049 (AST)

**ORDER GRANTING AND DENYING IN PART JUDGMENT AGAINST
DEFENDANTS ARVIND WALIA AND NIKNIM MANAGEMENT INC.**

The Court, having held trial in the above-referenced matter on July 24, 2024, and having considered the evidence, the Court's April 10, 2024 ruling on *Motion for Summary Judgment, or in the Alternative Summary Adjudication as Against Defendants Arvind Walia; Niknim Management Inc.*, prior pleadings and the record in this bankruptcy case as a whole; and having set this matter for a ruling conference on November 20, 2024 (the "Ruling Conference"); and sufficient cause appearing; and for the reasons set forth on the record of the Ruling Conference including certain legal and factual findings of the Court,


IT IS HEREBY ORDERED ADJUDGED AND DECREED that:

1. Plaintiff's First Cause of Action to Avoid an Intentionally Fraudulent Transfer under 11 U.S.C. §§544 and 548(a)(1)(A) and N.Y. Debtor and Creditor Law §276, and Second Cause of Action to Avoid a Constructively Fraudulent Transfer under 11 U.S.C. §544 and N.Y. Debtor and Creditor Law §§272-275, and §273-a, to avoid and recover the

- transfer in the amount of \$2,500,000 (the “First Transfer”), made to the Defendants Arvind Walia and NIKNIM Management, Inc., is denied as to either causes of action.
2. Plaintiff’s First Cause of Action to Avoid an Intentionally Fraudulent Transfer under 11 U.S.C. §§544 and 548(a)(1)(A) and N.Y. Debtor and Creditor Law §276, Second Cause of Action to Avoid a Constructively Fraudulent Transfer under 11 U.S.C. §544 and N.Y. Debtor and Creditor Law §§272-275, and §273-a, to avoid and recover the transfer in the amount of \$1,520,000 (the “Second Transfer”) and Fourth Cause of Action For Recovery of Property Pursuant to 11 U.S.C. §544 and N.Y. Debtor and Creditor Law is granted as to each causes of action. Defendants NIKNIM Management, Inc., and Arvind Walia, individually, are joint and severally liable for \$1,520,000.
 3. Plaintiff’s Fifth Cause of Action to Object to the Claim No. 10067, filed in the amount of \$61,590, as filed by Arvind Walia, is granted and the claim disallowed pursuant to Bankruptcy Code section 502(d).
 4. Plaintiff is awarded plus pre- judgment interest in accordance with the applicable interest rate as to the Second Transfer as against Defendants Arvind Walia and NIKNIM Management Inc., jointly and individually.
 5. The Court retains jurisdiction over remaining matters related thereto including costs and issuance of judgment.

Dated: December 6, 2024
Central Islip, New York




Alan S. Trust
Chief United States Bankruptcy Judge

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF NEW YORK
3
4 In re: . Central Islip, New York
5 .
6 . November 20, 2024
7
8 EHRENBURG V. ARVIND WALIA ET AL .
9 . 8-20-08049-AST
10 .
11 . Calendar Time 10:00 AM
12
13
14 8-20-08049-AST
15 EHRENBURG V. ARVIND WALIA ET AL
16
17 [1] COMPLAINT BY HOWARD M. EHRENBURG IN HIS CAPACITY AS
18 LIQUIDATING TRUSTEE OF ORION HEALTHCORP, INC., ET AL AGAINST
19 ARVIND WALIA, NIKNIM MANAGEMENT INC. - NATURE(S) OF SUIT:
20 (12(RECOVERY OF MONEY/PROPERTY - 547 PREFERENCE)), (13(RECOVERY OF
21 MONEY/PROPERTY - 548 FRAUDULENT TRANSFER)), (14(RECOVERY OF
22 MONEY/PROPERTY - OTHER)).
23
24 BEFORE HONORABLE ALAN S. TRUST
25
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47 Proceedings recorded by electronic sound recording,
48 transcript produced by transcription service.

1 THE COURT: This is Judge Trust. We'll take appearances
2 please, starting with the plaintiff.

3 JEFFREY NOLAN: Good morning, Your Honor. Jeff Nolan
4 appearing on behalf of the plaintiff, Howard Ehrenberg. Also
5 attending is Mr. Ehrenberg.

6 THE COURT: And then for the defendants?

7 SANFORD ROSEN: Good morning, Judge. Sanford Rosen,
8 co-counsel for the defendant.

9 EUGENE SCHEIMAN: Eugene Scheiman for defendant Walia.

10 THE COURT: Alright. Alright. Good morning. Do the parties
11 have a settlement to announce?

12 JEFFREY NOLAN: Unfortunately, no, Your Honor.

13 THE COURT: Okay. Alright. Then, this morning will be the
14 court's ruling after trial. The matters presented are court
15 proceedings under Title 28 Section 157B. This court has authority
16 to hear and determine under the standing orders of reference in effect
17 in this district following what constitutes the court's post trial
18 findings of fact and conclusions of law. By way of background, the
19 debtors, they were all listed on the petition starting with Orion
20 Health Corp Inc. They were a consolidated enterprise of several
21 companies engaged, excuse me, aggregated through a series of
22 acquisitions, which operate in the healthcare space, primarily
23 revenue and practice management for physician practices. This
24 adversary proceeding involves two transfers sought to be recovered
25 by the trustee as either actual and/or constructive fraudulent

1 transfers under Section 544 and 548 of the Bankruptcy Code and
2 Sections 273 through 276 of the New York Debtor and Creditor Laws.
3 Both transfers were made by one or more of the debtors either directly
4 or indirectly to the named defendants, Arvind Walia and Niknim
5 Management. The first transfer was made two years pre-petition on
6 April 15, 2016 from an M & T Bank account of the debtors to a JP
7 Morgan Chase bank account of the corporate defendant, Niknim in the
8 amount of \$2,500,000. I'll refer to that as the first transfer. That
9 was made at the direction of Paul Parmar who was the control person
10 on behalf of one or more of the corporate debtor entities at the
11 time. That transfer was made at the direction of defendant Walia
12 on behalf of an entity called Porteck Corporation, which was a seller
13 in connection with an asset purchase agreement, which I'll refer
14 to as the APA. The APA provided for a purchase price to the favor
15 of Porteck in the amount of \$12,800,000. The terms of that APA
16 including an indemnification provision under Section 1.6 which
17 provided the \$2,500,000 of the purchase price was to be escrowed
18 to indemnify the buyer of Physicians Practice Plus in the event that
19 claims arose post closing. The provision- the contractual provision
20 provided that if funds and indemnification were not needed by the
21 buyer, they could be returned to the seller. The record reflects
22 that the indemnification clause or the rights of the buyer to seek
23 indemnity were never triggered. The second transfer was a wire
24 transfer made one year pre-petition in June of 2017 from a lawyer's
25 trust account, lawyers to the benefit of the debtors, which was held

1 at JP Morgan Chase. That transfer was made to Niknim in the amount
2 of \$1,520,000. I'll refer to that as the second transfer and
3 collectively both as the transfers. The second transfer reportedly
4 represented a closing payment to be made pursuant to the terms of
5 a membership purchase agreement with an entity called Objectech.
6 Walia was the owner of Objectech and under the Objectech transaction,
7 Walia on behalf of Objectech agreed to sell to Parmar, a software
8 company indirectly owned by Walia called AllRad Direct, LLC.
9 Objectech was a shell company that owned AllRad. Sale agreement was
10 signed by Objectech as seller and Physicians Health Network
11 Management Solution, an entity owned and controlled by Parmar as
12 the buyer. Earlier in this adversary proceeding, both parties moved
13 for summary judgment in all claims. On April 10th this year, this
14 court held a ruling conference on the summary judgment motions. At
15 that time, the court described in great detail both the Porteck
16 transaction and the Objectech transaction and outlined its reasons
17 for denying the defendant's motion for partial summary judgment and
18 granting in part the trustee's motion for summary judgment. The only
19 relief requested at that time was against defendant Niknim and only
20 on the second transfer. The court incorporates its summary judgment
21 ruling for purposes of this ruling conference. The court then set
22 a date for trial on the remaining matters at issue after the parties
23 were not successful in mediation. The trial was held on July 23rd.
24 For the reasons to follow, the court has determined that the second
25 transfer is also avoidable against Mr. Walia, and the trustee can

1 recover the second transfer in the amount of \$1,520,000 from either
2 defendant; however, the court has also determined that the trustee
3 did not satisfy his burden of proof demonstrating that the first
4 transfer can be avoided against either Walia or Niknim. At the summary
5 judgment stay, the court had found a number of facts to not be in
6 material dispute, but found others to be in dispute and directed
7 the parties as part of their pretrial- joint pretrial memorandum
8 to stipulate the facts, which were not at issue for purposes of trial.
9 Those stipulated facts appear at Docket 137, the joint facts. I will
10 incorporate those into this ruling as well, but will only recite
11 a few of them. With respect to the first transfer of \$2,500,000 in
12 2- in 2015, Mr. Parmar, then CEO of Constellation Healthcare
13 Technologies, wanted to acquire a medical billing company and became
14 interested in Porteck. Porteck was a technology services company
15 owned and controlled by Mr. Walia, who was its CEO. At the time,
16 Porteck had two business lines referred to as HMS and PC Advantage,
17 which were both medical billing companies. In March of 2015, the
18 debtor and the- the later debtor entity, Physician Practice Plus
19 acquired the assets of Porteck pursuant to an APA. The sellers were
20 Walia, Porteck and the Janaminder Trust. Mr. Walia executed the APA
21 on behalf of all entities, but the Walia Trust, also the seller never
22 signed the APA. Parmar signed on behalf of the buyer. The APA provided
23 a purchase price of \$12,800,000 even though Mr. Walia had agreed
24 in writing to sell Porteck's assets for \$10,800,000. The purchase
25 price was "juiced upwards" by \$2,000,000 because Mr. Walia- Mr.

1 Parmar told Walia he needed an extra \$2,000,000 to cover deal fees.
2 Mr. Walia testified he didn't really pay attention to the "juiced
3 up" purchase price. The trial evidence reflects that the deal fees
4 were actually under \$200,000, not anywhere close to the \$2,000,000.
5 As far as the assets being acquired, the net assets of being acquired
6 from AHMS were \$1,350,000. The net asset value of PTA at the time-
7 of PCA at the time was \$474,000. So the total value of the assets
8 being acquired from Porteck for \$12,800,000 was less than
9 \$2,000,000. The parties agreed that the purchase price was five times
10 the EBITDA of the acquired business lines. The bank records reflected
11 that a wire of \$9,800,000 went from an IOLTA account at Robinson
12 Brogg held on behalf of the debtor CHT to close the purchase price-
13 to close the purchase, but of that \$9,800,000, \$6,800,000 went to
14 Walia and his entities, and \$3,000,000 went "sideways" to another
15 non-debtor entity controlled by Mr. Parmar. After the deal closed,
16 Walia moved over to debtor Orion Health Company as the CEO and then
17 became the chief technology officer of CHT and served in those
18 capacities after both of the transfers at issue were made. Mr. Walia
19 testified about the purpose of the \$2,500,000 escrow agreement to
20 protect the buyer in- in the event of a claim. Although the APA,
21 particularly in Section 1.6, calls for the execution of an escrow
22 agreement and the selection of an escrow agent, neither of those
23 ever occurred. As far as the second transfer of \$1,520,000, as I
24 stated, that was in connection with the purchase of an entity called
25 Objectech, which was owned- excuse me, purchase of a company Mr.

1 Walia indirectly owned called AllRad, which was actually directly
2 held by Objectech. The purchase agreement required for various due
3 diligence to be undertaken and reports to be issued, but those were
4 never provided. State and federal tax returns were also to be provided
5 to the buyer. Those were not provided. But despite the pre-closing
6 deficiencies, the purchase agreement closed in June of 2017 and the
7 debtor funded the \$1,520,000 and acquired the share ownership in
8 AllRad that the agreement called for. The court at trial had four
9 affidavits from the trustee, an expert affidavit of Craig Jacobson,
10 an expert affidavit of Max Mitchell, a fact affidavit of Frank
11 Lazarra, and a fact affidavit of Edith Wong. All of those affidavits
12 as well as numerous other exhibits totaling 31 were admitted. Each
13 of those witnesses were available at trial for cross examination.
14 The court also, upon request of the trustee, took notice of a proof
15 of claim filed by Walia at Claim 10141, a summons and verified
16 complaint filed in New York State Court Criterion's LLC versus Visian
17 Court Physicians Practice Arvind Walia and Constellation
18 Healthcare. The court also accepted the affidavit of Mr. Walia and
19 he was cross examined at trial. The court generally found all the
20 witnesses' testimony to be credible. There were very few conflicting
21 areas of conflict between the witnesses' fact testimony. As parties
22 were well aware, Bankruptcy Code Section 548(a)(1) allows the
23 trustee to avoid transfer made two years prior to the petition date
24 if made with actual fraudulent intent to hinder, delay or defraud.
25 DCL 276 similarly so provides as a matter of New York State Law.

1 Those two provisions are essentially identical. See this court's
2 opinion in Janitorial Closeout, 213 Westlaw, 492375 at 5. For a
3 transfer to be avoided as actually fraudulent, the debtor moving-
4 the party with a burden of proof must demonstrate that the debtor
5 had an interest in the transferred property, the property occurred
6 within the applicable limitations period, and the transfer was made
7 with actual intent to hinder, delay or defraud. For purposes of this
8 analysis, the court focuses on the intent of the transferor, not
9 the intent of the transferee. The trustee's burden was to establish
10 fraudulent intent by clear and convincing evidence. See in re Jacobs,
11 Bankruptcy Eastern District of New York 2008, 394 B.R. 646. The court
12 routinely in the Second Circuit as elsewhere look in a number of
13 badges of fraud for that determination. See this court's opinion
14 in Zerbo, 392 B.R. 642 at 649. The trustee also sought to avoid the
15 transfers as constructively fraudulent under Bankruptcy Code
16 Section 548 (a) (1) (B) and New York DCL 273 through 275. Under the
17 Bankruptcy Code, the trustee must establish that an interest in the
18 debtors- of the debtor's property was transferred, that it occurred
19 within two years prior to the petition date, that the debtor received
20 less than a reasonably equivalent value in exchange, and that one
21 of the four financial conditions enumerated in the code was
22 satisfied. See in re Molina, 657 B.R. 172 at 186, Bankruptcy Eastern
23 District 2023. Under State Law, a transfer can be a fraudulent
24 conveyance- can be a constructively fraudulent- excuse me- can be
25 a constructively fraudulent transfer if it is made without fair

1 consideration and neither the transferor was insolvent or rendered
2 insolvent at the time of the transfer, was engaged or about to engage
3 in a business for which its property constitutes a reasonably small
4 capital, or the transferor believed it would incur debt beyond its
5 ability to pay. See *in re Dreier*, 452 B.R. 391 at 441, Bankruptcy
6 Southern District of New York 2011. Fair consideration of New York
7 DCL 272 requires that when an exchange for property is made that
8 the- that the fair- that the transferor receives a fair equivalent
9 and good faith and- and- excuse me, receives a fair equivalent value
10 in good faith or that when the property is transferred, the obligation
11 is incurred in good faith. It's made to secure a present advance
12 or for payment of antecedent debt, not disproportionately small as
13 compared with the value of the property transferred or the obligation
14 undertaken. The courts generally agree that the determination of
15 fair consideration can be elusive and is not subject to a precise
16 formula. Here in connection- here it is undisputed that the debtors
17 had an interest in- in the property, which was made the subject of
18 both transfers. See joint facts paragraph 6 that they were made within
19 the applicable statutes of limitations. The first transfer was made
20 in connection with the Porteck APA, which was governed by the state-
21 which was governed by the laws of the State of New York. The second
22 transfer was purportedly made in connection with the Objectech
23 purchase agreement also governed by the laws of the State of New
24 York. At the trial, the trustee asserted that defendant should be
25 held liable for both of the transfers, largely arguing that the

1 transfers arose out of a fraud orchestrated against creditors by
2 Parmar joined in by Mr. Walia, that Walia was Parmar's "partner in
3 crime," and that neither of the transfers could have occurred but
4 for Walia's involvement. Conversely, Walia maintained that he
5 believed the transfers were legitimate. More specifically, as to
6 the first transfer, the trustee's theory is that the Porteck APA
7 escrow provisions, which Walia claims as the source of fair
8 consideration for the \$2,500,000 stems from a transaction, which
9 is fraudulent on its face. Much of the evidence deduced to trial
10 by the trustee suggests issues or concerns with the overall purchase
11 price of the APA including the "juiced up" \$2,000,000, payment of
12 the purchase price and how the overall agreement was carried out
13 between Walia and Parmar. However, the trustee has not brought any
14 claims concerning the validity of the APA itself. The underlying
15 overall transaction is not and was not the subject of a fraudulent
16 transfer attacked by the trustee either as action or constructive.
17 In fact, at trial, the court questioned the trustee's counsel about
18 whether the trustee believed that he had stated a fraudulent transfer
19 claim against the APA. Counsel's response was that was "irrelevant."
20 Thus, in the court's analysis, it is not the APA or the overall Porteck
21 transaction, which is under attack before this court. The only issue
22 before this court relates to the \$2,500,000 second and final payment
23 made approximately 13 months after the Porteck closing. The record
24 is clear that the \$2,500,000 which was held back was held back for
25 the indemnity obligations of the seller under the APA. While Section

1 1.6 provided that the \$2,500,000 would be delivered by Physician
2 Practices, the buyer and a debtor, at closing to an escrow agent
3 pursuant to an escrow agreement. As stated, no such escrow agreement
4 was executed. No such escrow agent was selected. However, it's clear
5 that the intent of the expressed provision of the escrow portion
6 of the APA was to protect the rights of the buyer, Physician Practice
7 and the ability for the buyer to secure their right to funds in the
8 event of the triggering of an indemnity obligation. However, the
9 record is also clear that no indemnity claims were ever asserted
10 by the buyer against the seller, and the trustee has not asserted
11 or proven that the \$2,500,000 first transfer exceeded the remaining
12 contractual obligations of Physicians Practice. Thus, the trustee
13 has failed to demonstrate that the first transfer was made without
14 fair consideration. Generally, satisfying a contractual obligation
15 constitutes reasonably equivalent value as a matter of law. While
16 it doesn't express the bar claim for constructive fraud, the trustee
17 must still need the elements of proof and he has failed to do so
18 here. See King Operations in re PA Co-Man Inc, 644 B.R. 553 at 626,
19 Bankruptcy Western District of Pennsylvania, 2022. The court has
20 also found that the evidence submitted at trial including what was
21 undisputed in summary judgment failed to prove the elements of an
22 actual fraudulent transfer concerning the \$2,500,000 as it relates
23 to either defendant. Walia was the signatory to the APA as the selling
24 shareholder. He was the owner and control person of Porteck. He
25 informed Niknim to manage his consulting work and take care of his

1 personal investments and family trust. Walia consistently used
2 Niknim's bank account for business transactions and often for
3 personal needs. The \$2,500,000 as stated was the payment of a specific
4 contractual obligation. Again, while much of the evidence proffered
5 by the trustee suggests suspicion around the overall purchase price
6 for the Porteck assets, the APA itself was not the subject of a
7 fraudulent transfer claim. The court also noted that the debtor's
8 books and records did not reflect an antecedent debt of \$2,500,000
9 owed to the sellers of Porteck at the relevant time. That in and
10 of itself does not prove a fraudulent transfer because the contract
11 expressly provides for that post closing obligation. Thus, all
12 relief as to the first transfer is denied. As relates to the second
13 transfer, the court previously found that the second transfer was
14 avoidable as against Niknim. For the following reasons, the court
15 also finds that the second transfer is avoidable against Walia and
16 the trustee may recover the \$1,520,000 from either defendant.
17 Section 550 of the Bankruptcy Code expressly provides that to the
18 extent that a transfer is avoided under sections 544, 548, or others,
19 the trustee may recover for the benefit of the estate, the property
20 transferred or the value of the property transfer from either the
21 initial transferee of such transfer or the entity for whose benefit
22 such transfer was made or an immediate- or immediate transferee.
23 Court has already avoided the second transfer as against Niknim under
24 Section 548. Section 550 on its face makes such a fraudulent transfer
25 recoverable against any party for whose benefit the transfer was

1 made that retains- or that retains the property transfers. Here,
2 Niknim was the initial transferee. The record is clear that the sole
3 intent of the second transfer being made to Niknim was to benefit
4 Walia. Niknim was clearly a vehicle that Walia used for his personal
5 and business purposes, that it was Mr. Walia who personally benefited
6 from the second transfer as well as actively participating in the
7 transaction. As noted, the sale agreement involved the sale of
8 AllRad, which Mr. Walia indirectly owned. Additional evidence in
9 the record supports this conclusion. On June 21, 2017 at 6:37 p.m.,
10 Walia emailed Sam Zaharis at Constellation Health Group that he was
11 able to sign the APA on behalf of Objectech as he was the only member.
12 He noted in that email that Objectech was a shell company. In that
13 same email, Mr. Walia provided wire instructions for the money to
14 go to Niknim's bank account. Other than the fact that Walia owned
15 both Objectech and Niknim, there is no other relationship between
16 these companies in the record. Thus, there is no reason for the
17 \$1,520,000 purchase price to be wired to Niknim's bank account since
18 it was not a seller other than solely as a convenience for and to
19 the benefit of Walia. Again, Walia had testified that he used Niknim's
20 bank account for personal expenses, for business purposes, and as
21 a convenience for himself. Niknim had no interest in AllRad, so it
22 is clear that it was Walia who benefited from the transfer to Niknim.
23 Thus, the court has concluded that the trustee may recover the second
24 transfer from either defendant. Because the court has not granted
25 judgment in favor of the trustee on the first transfer and has

1 determined that the second transfer is recoverable against either
2 defendant under Section 550, the court need not and therefore will
3 not address the trustee's claims of alter ego. Section 551 provides
4 that any transfer avoidant under Sections 548 and others are
5 preserved for the benefit of the estate. As the second transfer has
6 been avoided pursuant to Section 548 and is found recoverable against
7 both defendants, the second transfer is preserved for the benefit
8 of the estate. Finally, with respect to the claims objection, the
9 trustee also objected to the Walia claims. Section 502D provides
10 that the court will disallow the claim of any entity who has received
11 fraudulent transfer until such transfer has been repaid. On July
12 5, 2018, Walia filed a claim for \$61,590. All claims of Walia and
13 Niknim are disallowed unless and until they have repaid the
14 fraudulent transfer receipt in addition to applicable pre and post
15 judgment interest. The court is directing that the trustees submit
16 a judgment in his- in his favor avoiding the second transfer, both
17 as against Niknim and as against Walia with a judgment of liability
18 against both along with all appropriate prejudgment and post
19 judgment interest at the applicable statutory rates as well as
20 allowable costs of suit. That will conclude the court's ruling
21 conference on 20-8049. The court will be in recess until 11 o'clock.
22 I'm going to direct that the- the attorneys for each side work on
23 a form of judgment to be submitted consistent with my ruling within
24 14 days. The court will now be in recess until 11 o'clock and we
25 will go off the record. Thank you all.

1 JEFFREY NOLAN: Thank you, Your Honor.

2 SANFORD ROSEN: Thank you.

3 EUGENE SCHEIMAN: Thank you, Your Honor.

4

5 * * *

6 **CERTIFICATION**

7 I, Catherine Aldrich, certify that the foregoing is a correct
8 transcript from the electronic sound recordings of the proceedings
9 in the above-entitled matter.

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12 _____ December 13, 2024

13 Catherine Aldrich

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<p>Ability - 9:5, 11:7 Able - 13:11 About - 6:19, 9:2, 10:17 Above - 15:9 Accepted - 7:18 Account - 3:6, 3:7, 3:25, 6:11, 12:2, 13:14, 13:17, 13:20 Acquire - 5:13 Acquired - 5:19, 6:5, 6:8, 6:10, 7:7 Acquisitions - 2:22 Action - 10:16 Actively - 13:6 Actual - 2:25, 7:24, 8:7, 11:22 Actually - 6:4, 7:1, 8:3 Addition - 14:14 Additional - 13:8 Address - 14:3 Admitted - 7:12 Advance - 9:11 Advantage - 5:16 Adversary - 2:24, 4:12 Affidavit - 7:9, 7:10, 7:11, 7:18 Affidavits - 7:9, 7:11 After - 2:14, 4:22, 6:15, 6:18, 10:23 Again - 12:4, 13:19 AGAINST - 1:16, 4:19, 4:25, 5:4, 10:1, 10:19, 11:10, 12:14, 12:15, 12:23, 12:25, 14:1, 14:6, 14:17, 14:18 Agent - 6:22, 11:2, 11:4 Aggregated - 2:21 Agree - 9:14 Agreed - 4:7, 5:23, 6:9 Agreement - 3:13, 4:5, 4:9, 6:19, 6:22, 7:2, 7:6, 7:8, 9:23, 10:12, 11:3, 13:7 AHMS - 6:6 AL - 1:7, 1:13, 1:16 ALAN - 1:21 ALDRICH - 1:36, 15:7, 15:13 All - 2:19, 4:13, 5:21, 7:11, 7:19, 12:11, 14:12, 14:18, 14:25 Allowable - 14:20 Allows - 7:22</p>	<p>Allrad - 4:8, 4:9, 7:1, 7:8, 13:8, 13:21 Along - 14:18 Already - 12:23 Alright - 2:10, 2:13 Also - 2:4, 4:25, 5:2, 5:21, 7:4, 7:14, 7:18, 8:14, 9:23, 11:9, 11:20, 12:7, 12:15, 14:9 Alter - 14:3 Although - 6:20 AM - 1:10 Amount - 3:8, 3:15, 4:1, 5:1 An - 3:6, 3:12, 3:13, 3:16, 4:5, 4:11, 5:19, 6:1, 6:11, 6:21, 6:22, 6:24, 7:9, 7:10, 8:5, 8:17, 9:7, 9:17, 11:2, 11:3, 11:8, 11:21, 12:8, 12:22 Analysis - 8:8, 10:20 And/Or - 2:25 Angeles - 1:26 Announce - 2:11 Another - 6:14 Antecedent - 9:12, 12:8 Any - 10:13, 12:25, 14:4, 14:10 Anywhere - 6:4 APA - 3:14, 3:15, 5:19, 5:20, 5:22, 6:20, 9:20, 10:6, 10:11, 10:14, 10:19, 10:20, 10:25, 11:6, 11:23, 12:6, 13:11 Appear - 5:9 Appearances - 2:1 Appearing - 2:4 Applicable - 8:6, 9:19, 14:14, 14:19 Appropriate - 14:18 Approximately - 10:23 April - 3:6, 4:13 Are - 2:14, 8:1, 14:4, 14:13 Areas - 7:21 Arguing - 9:25 Arose - 3:19, 10:1 Around - 12:5 ARVIND - 1:7, 1:13, 1:17, 3:4, 7:17 AS - 1:15, 2:25, 3:8, 3:14, 4:2, 4:3, 4:10, 4:11, 5:7, 5:10, 5:16, 6:5, 6:16, 6:23, 7:12, 7:21, 7:25, 8:3, 8:12,</p>	<p>8:15, 9:12, 10:5, 10:7, 10:16, 11:3, 11:15, 11:22, 11:23, 12:3, 12:12, 12:14, 12:23, 13:6, 13:7, 13:11, 13:18, 13:20, 14:5, 14:17, 14:19 Asserted - 9:24, 11:9, 11:10 Asset - 3:13, 6:6 Assets - 5:19, 5:24, 6:5, 6:7, 12:6 Associates - 1:28 AST - 1:8, 1:12 At - 3:9, 3:10, 3:11, 4:1, 4:14, 4:19, 4:22, 5:4, 5:8, 5:9, 5:15, 6:6, 6:7, 6:11, 6:18, 7:8, 7:13, 7:15, 7:19, 8:2, 8:14, 8:22, 9:2, 9:5, 9:24, 10:17, 11:2, 11:18, 11:20, 12:9, 13:9, 13:10, 14:19 Attack - 10:21 Attacked - 10:16 Attending - 2:5 Attention - 6:2 Attorney - 1:22, 1:27 Attorneys - 14:22 Authority - 2:15 Available - 7:13 Avoid - 7:23, 8:14 Avoidable - 4:25, 12:14, 12:15 Avoidant - 14:4 Avoided - 5:4, 8:3, 12:18, 12:23, 14:6 Avoiding - 14:16 Aware - 7:22</p>	<p>Because - 5:25, 12:10, 13:24 Been - 14:6, 14:11 BEFORE - 1:21, 10:21, 10:22 Behalf - 2:4, 3:10, 3:12, 4:7, 5:21, 5:22, 6:12, 13:11 Being - 6:5, 6:8, 13:3 Believed - 9:4, 10:5, 10:18 Bellmore - 1:39 Benefit - 3:25, 12:19, 12:21, 12:25, 13:3, 13:19, 14:5, 14:7 Benefited - 13:5, 13:22 Between - 7:21, 10:13, 13:15 Beyond - 9:4 Billing - 5:13, 5:17 Books - 12:8 Both - 3:3, 4:3, 4:12, 4:15, 5:17, 6:18, 9:18, 9:25, 13:15, 14:7, 14:16, 14:18 Boulevard - 1:24 Box - 1:29 Brogg - 6:12 Brought - 10:13 Burden - 5:3, 8:4, 8:9 Business - 5:16, 6:10, 9:3, 12:2, 13:5, 13:20 But - 5:6, 5:10, 5:21, 6:13, 7:3, 7:5, 10:3 Buyer - 3:18, 3:21, 3:22, 4:12, 5:22, 6:20, 7:5, 11:2, 11:6, 11:7, 11:10 BY - 1:15, 1:42, 1:43, 2:18, 2:25, 3:3, 3:20, 4:8, 4:10, 4:11, 5:15, 5:25, 6:15, 7:2, 7:15, 8:10, 9:20, 9:21, 9:23, 10:1, 10:2, 10:10, 10:16, 11:1, 11:10, 12:5</p>
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<p>Underlying - 10:14 Undertaken - 7:3, 9:14 Undisputed - 9:16, 11:21 Unfortunately - 2:12 UNITED - 1:1 Unless - 14:13 Until - 14:11, 14:13, 14:21, 14:24 Up - 6:3, 10:11 Upon - 7:14 Upwards - 5:25 Used - 12:1, 13:4, 13:19</p> <p>V</p> <p>Validity - 10:14 Value - 6:6, 6:7, 8:20, 9:9, 9:13, 11:15, 12:20 Various - 7:2 Vehicle - 13:4 Verified - 7:15 Versus - 7:16 Very - 7:20 Visian - 7:16</p> <p>W</p> <p>WALIA - 1:7, 1:13, 1:17, 2:9, 3:4, 3:11, 4:6, 4:7, 4:8, 4:25, 5:4, 5:15, 5:20, 5:21, 5:23, 5:25, 6:1, 6:2, 6:14, 6:16, 6:18, 7:1, 7:15, 7:17, 7:18, 10:2, 10:4, 10:7, 10:13, 11:23, 12:1, 12:15, 13:4, 13:5, 13:8, 13:10, 13:13, 13:14, 13:19, 13:22, 14:9, 14:12, 14:17 Walia's - 10:4 Wanted - 5:13 Was - 3:5, 3:9, 3:11, 3:12, 3:17, 3:23, 3:25, 4:1, 4:6, 4:9, 4:19, 4:23, 5:14, 5:15, 5:25, 6:7, 6:8, 6:9, 6:24, 6:25, 7:1, 7:19, 8:6, 8:9, 8:18, 8:21, 9:1, 9:2, 9:17, 9:19, 9:20, 9:21, 9:22, 10:2, 10:12, 10:15, 10:19, 10:24, 11:4, 11:6, 11:13, 11:20, 11:23, 11:24, 12:3, 12:6, 12:13, 12:22, 12:25, 13:2, 13:3, 13:4, 13:5, 13:10, 13:11, 13:12, 13:18, 13:22 Way - 2:18 Well - 5:10, 7:12, 7:22,</p>	<p>13:6, 14:19 We'll - 2:1 Went - 6:11, 6:13, 6:14 Were - 2:19, 2:20, 3:3, 3:20, 3:23, 4:23, 5:8, 5:17, 5:19, 6:4, 6:6, 6:18, 7:3, 7:4, 7:5, 7:12, 7:13, 7:20, 7:22, 9:18, 10:5, 11:9 Western - 11:19 Westlaw - 8:2 What - 2:17, 11:20 When - 9:7, 9:10 Whether - 10:18 Which - 2:22, 3:12, 3:13, 3:16, 3:25, 5:8, 5:17, 6:25, 7:1, 9:3, 9:17, 9:20, 9:21, 10:7, 10:8, 10:21, 10:24, 13:8 While - 10:25, 11:15, 12:4 Who - 3:9, 5:15, 13:5, 13:22, 14:10 Whose - 12:21, 12:25 Will - 2:13, 5:9, 5:10, 14:2, 14:10, 14:20, 14:21, 14:24, 14:25 Wire - 3:23, 6:11, 13:13 Wired - 13:17 With - 2:2, 2:19, 3:13, 4:5, 5:11, 6:24, 7:24, 8:4, 8:7, 9:13, 9:20, 9:22, 10:10, 14:8, 14:17, 14:18, 14:23 Within - 8:6, 8:19, 9:18, 14:23 Without - 8:25, 11:13 Witnesses - 7:13 Witnesses' - 7:20, 7:21 Wong - 7:11 Work - 11:25, 14:22 Would - 9:4, 11:1 Writing - 5:24</p> <p>Y</p> <p>Year - 3:24, 4:13 Years - 3:5, 7:23, 8:19 YORK - 1:2, 1:4, 1:35, 3:2, 7:16, 7:25, 8:11, 8:16, 9:6, 9:21, 9:24 You - 14:25, 15:1, 15:2, 15:3 Your - 2:3, 2:12, 15:1, 15:3</p>	<p>Z</p> <p>Zaharis - 13:10 Zerbo - 8:14 Ziehl - 1:23</p> <p>'S - 12:2</p> <p>\$</p> <p>\$1,350,000 - 6:6 \$1,520,000 - 4:2, 5:1, 6:23, 7:7, 12:16, 13:17 \$10,800,000 - 5:24 \$12,800,000 - 3:15, 5:23, 6:8 \$2,000,000 - 5:25, 6:1, 6:4, 6:9, 10:11 \$2,500,000 - 3:8, 3:17, 5:11, 6:19, 10:8, 10:22, 10:24, 11:1, 11:11, 11:22, 12:3, 12:8 \$200,000 - 6:4 \$3,000,000 - 6:14 \$474,000 - 6:7 \$6,800,000 - 6:13 \$61,590 - 14:12 \$9,800,000 - 6:11, 6:13</p> <p>1</p> <p>1.6 - 3:16, 6:21, 11:1 10:00 - 1:10 10004 - 1:35 10100 - 1:24 10141 - 7:15 10th - 4:13 11 - 14:21, 14:24 11710 - 1:39 11965 - 1:30 12 - 1:18 1274 - 1:29 13 - 1:18, 10:23, 15:12 137 - 5:9 13th - 1:25 14 - 1:19, 14:24 15 - 3:6 157B - 2:15 17 - 1:34 172 - 8:22 186 - 8:22</p> <p>2</p> <p>20 - 1:6</p>	<p>2008 - 8:11 2011 - 9:6 2015 - 5:12, 5:17 2016 - 3:6 2017 - 3:24, 7:6, 13:9 2018 - 14:12 2022 - 11:19 2023 - 8:23 2024 - 1:6, 15:12 20-8049 - 14:21 21 - 13:9 213 - 8:2 2376 - 1:38 23rd - 4:23 272 - 9:7 273 - 3:2, 8:16 275 - 8:16 276 - 3:2, 7:25 28 - 2:15</p> <p>3</p> <p>31 - 7:12 391 - 9:5 392 - 8:14 394 - 8:11</p> <p>4</p> <p>40 - 1:34 441 - 9:5 452 - 9:5 492375 - 8:2</p> <p>5</p> <p>502D - 14:9 544 - 3:1, 12:18 547 - 1:18 548 - 1:19, 3:1, 7:22, 8:16, 12:18, 12:24, 14:4, 14:6 550 - 12:17, 12:24, 14:2 551 - 14:3 553 - 11:18</p> <p>6</p> <p>6:37 - 13:9 626 - 11:18 642 - 8:14 644 - 11:18 646 - 8:11 649 - 8:14 657 - 8:22</p>
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<div>8</div> <div>8-20-08049 - 1:8, 1:12</div> <div>9</div> <div>90067 - 1:26</div>			
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United States Bankruptcy Court

Eastern District of New York
290 Federal Plaza
Central Islip, NY 11722

IN RE:

CASE NO: 8-20-08049-ast

Ehrenberg v. Arvind Walia et al

DEBTOR(s)

**NOTICE OF FILING OF TRANSCRIPT AND OF DEADLINES RELATED TO
RESTRICTION AND REDACTION**

NOTICE IS HEREBY GIVEN THAT:

A transcript of the proceeding held on 11/20/24 was filed on 12/16/24.

The following deadlines apply:

The parties have until December 23, 2024 to file with the court a Notice of Intent to Request Redaction of this transcript. The deadline for filing a Transcript Redaction Request is January 6, 2025.

If a Transcript Redaction Request is filed, the redacted transcript is due January 16, 2025.

If no such Notice is filed, the transcript may be made available for remote electronic access upon expiration of the restriction period, which is March 17, 2025, unless extended by court order.

To review the transcript for redaction purposes, you may purchase a copy from the transcriber E-Scribe at 800-300-1012 or you may view the document at the public terminal at the Office of the Clerk.

Dated: December 18, 2024

For the Court, Robert A. Gavin, Jr., Clerk of Court

Notice Recipients

District/Off: 0207-8	User: admin	Date Created: 12/18/2024
Case: 8-20-08049-ast	Form ID: 296	Total: 4

Recipients of Notice of Electronic Filing:

aty	Eugene Ronald Scheiman	eugene.scheiman@scheimanlaw.com
aty	Sanford P Rosen	srosen@rosenpc.com

TOTAL: 2

Recipients submitted to the BNC (Bankruptcy Noticing Center):

aty	Jeffrey Norlan	Pachulski Stang Ziehl & Jones LLP	780 Third Avenue	34th Floor	New York,
	NY 10017				
	Jeffrey Nolan	Pachulski Stang Ziehl & Hones	10100 Santa Monica Boulevard	13th Floor	Los
	Angeles, CA 90067				

TOTAL: 2

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

ORION HEALTHCORP, INC.,¹

Debtor.

Chapter 11

Case No. 18-71748-(AST)

HOWARD M. EHRENBERG IN HIS CAPACITY
AS LIQUIDATING TRUSTEE OF ORION
HEALTHCORP, INC., ET AL.,

Plaintiff,

- against -

ARVIND WALIA; NIKNIM MANAGEMENT,
INC.,

Defendant.

Adversary Proc. No. 20-08049-(AST)

JUDGEMENT AGAINST ARVIND WALIA AND NIKNIM MANAGEMENT INC.

The Court having called this adversary for the duly scheduled ruling conference on November 20, 2024, (the “Ruling Conference”) following the trial conducted on July 24, 2024, and the Court having considered the evidence submitted by the parties and issued its order related thereto, judgment is hereby entered against Arvind Walia and NIKNIM Management,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Orion Healthcorp, Inc. (7246); Constellation Healthcare Technologies, Inc. (0135); NEMS Acquisition, LLC (7378); Northeast Medical Solutions, LLC (2703); NEMS West Virginia, LLC (unknown); Physicians Practice Plus Holdings, LLC (6100); Physicians Practice Plus, LLC (4122); Medical Billing Services, Inc. (2971); Rand Medical Billing, Inc. (7887); RMI Physician Services Corporation (7239); Western Skies Practice Management, Inc. (1904); Integrated Physician Solutions, Inc. (0543); NYNM Acquisition, LLC (unknown) Northstar FHA, LLC (unknown); Northstar First Health, LLC (unknown); Vachette Business Services, Ltd. (4672); Phoenix Health, LLC (0856); MDRX Medical Billing, LLC (5410); VEGA Medical Professionals, LLC (1055); Allegiance Consulting Associates, LLC (7291); Allegiance Billing & Consulting, LLC (7141); New York Network Management, LLC (7168). The corporate headquarters and the mailing address for the Debtors listed above is 1715 Route 35 North, Suite 303, Middletown, NJ 07748

Inc., jointly and individually, in favor of the Plaintiff, Howard M. Ehrenberg, In His Capacity As Liquidating Trustee Of Orion Healthcorp, Inc., as follows:

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff recover the following:

1. Judgment is hereby entered against Defendants, Arvind Walia, and NIKNIM Management, Inc., jointly and individually, and in favor of Plaintiff, Howard M. Ehrenberg, the duly appointed Liquidating Trustee for Orion Healthcorp., Inc., in the amount of \$1,520,000 in principal plus costs of suit of \$350.00 and prejudgment interest, calculated from the date of the filing of the Complaint on March 13, 2020, to judgment, (1,831 days) calculated in accordance with New York State Law at 9% simple interest in the amount of \$686,248.76, for a total judgment of \$2,206,598.76.
2. Post-judgment interest shall accrue and be payable by Defendants, Arvind Walia and NIKNIM Management, Inc., jointly and individually at the prevailing federal rate pursuant to 28 U.S.C. § 1961(a) from the date of entry of this Judgment to the date the amount is paid in full.

Dated: April 3, 2025
Central Islip, New York



Alan S. Trust
Chief United States Bankruptcy Judge

Notice Recipients

District/Off: 0207-8 User: admin Date Created: 4/4/2025
Case: 8-20-08049-ast Form ID: pdf000 Total: 6

Recipients of Notice of Electronic Filing:

aty	Eugene Ronald Scheiman	eugene.scheiman@scheimanlaw.com
aty	Paris Gyparakis	pgyparakis@pbnlaw.com
aty	Sanford P Rosen	srosen@rosenpc.com

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

ust	United States Trustee	Long Island Federal Courthouse	560 Federal Plaza – Room 560	Central Islip,
	NY 11722-4437 USA			
10129404	Arvind Walia	C/O The Law Office of Eugene R. Scheiman	570 Lexington Avenue, Suite 1600	New
	York, New York 10022			
10129405	Niknim Management Inc.	C/O The Law Office of Eugene R. Scheiman	570 Lexington Avenue, Suite	
	1600	New York, New York 10022		

TOTAL: 3

Official Form 417A (12/23)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

In re:

ORION HEALTHCORP, INC. *et al.*,

Debtors.

HOWARD M. EHRENBURG, IN HIS CAPACITY
AS LIQUIDATING TRUSTEE OF ORION
HEALTHCORP, INC., ET AL.,

Plaintiff,

v.

ARVIND WALIA; NIKNIM MANAGEMENT INC.,

Defendants.

Chapter 11

Case No. 18-71748 (AST)

Adv. Proc. No. 20-08049 (AST)

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Arvind Walia and Niknim Management Inc.
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff

☒ Defendants

☐ Other (describe) _____

For appeals in a bankruptcy case and not
in an adversary proceeding.

☐ Debtor

☐ Creditor

☐ Trustee

☐ Other (describe) _____

Part 2: Identify the subject of this appeal

1. Describe the judgment—or the appealable order or decree—from which the appeal is taken:

- a. Judgment against Defendants Arvind Walia and Niknim Management Inc.
ORDERED AND ADJUDGED that Plaintiff recover the following: Judgment is hereby entered against Defendants, Arvind Walia, and NIKNIM Management, Inc., jointly and individually, and in favor of Plaintiff, Howard M Ehrenberg, the duly

appointed Liquidating Trustee for Orion Healthcorp., Inc., in the amount of \$1,520,000 in principal plus costs of suit of \$350.00 and prejudgment interest, calculated from the date of the filing of the Complaint on March 13, 2020, to judgment, (1,831 days) calculated in accordance with New York State Law at 9% simple interest in the amount of \$686,248.76, for a total judgment of \$2,206,598.76. Post-judgment interest shall accrue and be payable by Defendants, Arvind Walia and NIKNIM Management, Inc., jointly and individually at the prevailing federal rate pursuant to 28 U.S.C. § 1961(a) from the date of entry of this Judgment to the date the amount is paid in full [Doc. No. 157], a copy of which is annexed hereto.

2. State the date on which the judgment—or the appealable order or decree—was entered:
April 3, 2025

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment—or the appealable order or decree—from which the appeal is taken and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

Party	Attorney
1. Plaintiff: HOWARD M. EHRENBERG, IN HIS CAPACITY AS LIQUIDATING TRUSTEE OF ORION HEALTHCORP, INC., ET AL.	Jeffery P. Nolan, Esq. PACHULSKI STANG ZIEHL & JONES LLP 780 Third Avenue, 34 th Floor New York, NY 10017 Phone: (310) 772.2313 Email: jnolan@pszjlaw.com
2. Defendants: ARVIND WALIA and NIKNIM MANAGEMENT INC.	Sanford P. Rosen, Esq. ROSEN & ASSOCIATES, P.C. PO Box 1274 Shelter Island Heights, NY 11965 Phone: (212) 223-1100 Email: srosen@rosenpc.com Eugene R. Scheiman, Esq. LAW OFFICES OF EUGENE R. SCHEIMAN, PLLC 570 Lexington Avenue New York, NY 10022 Phone: (646) 280-9000 Email: eugene.scheiman@sheimanlaw.com

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

5: Sign below

ROSEN & ASSOCIATES, P.C.

By: /s/ Sanford P. Rosen
Sanford P. Rosen

April 10, 2025

P.O. Box 1274
Shelter Island Heights, NY 11965
Telephone: (212) 223-1100

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

CERTIFICATE OF SERVICE

I certify that on April 10, 2025, I caused a true and correct copy of the foregoing document to be served by the Court's CM/ECF notification system, which will send notice of electronic filing to all counsel of record.

/s/ Christine McCabe
Christine McCabe

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

ORION HEALTHCORP, INC.,¹

Debtor.

Chapter 11

Case No. 18-71748-(AST)

HOWARD M. EHRENBERG IN HIS CAPACITY
AS LIQUIDATING TRUSTEE OF ORION
HEALTHCORP, INC., ET AL.,

Plaintiff,

- against -

ARVIND WALIA; NIKNIM MANAGEMENT,
INC.,

Defendant.

Adversary Proc. No. 20-08049-(AST)

JUDGEMENT AGAINST ARVIND WALIA AND NIKNIM MANAGEMENT INC.

The Court having called this adversary for the duly scheduled ruling conference on November 20, 2024, (the “Ruling Conference”) following the trial conducted on July 24, 2024, and the Court having considered the evidence submitted by the parties and issued its order related thereto, judgment is hereby entered against Arvind Walia and NIKNIM Management,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Orion Healthcorp, Inc. (7246); Constellation Healthcare Technologies, Inc. (0135); NEMS Acquisition, LLC (7378); Northeast Medical Solutions, LLC (2703); NEMS West Virginia, LLC (unknown); Physicians Practice Plus Holdings, LLC (6100); Physicians Practice Plus, LLC (4122); Medical Billing Services, Inc. (2971); Rand Medical Billing, Inc. (7887); RMI Physician Services Corporation (7239); Western Skies Practice Management, Inc. (1904); Integrated Physician Solutions, Inc. (0543); NYNM Acquisition, LLC (unknown) Northstar FHA, LLC (unknown); Northstar First Health, LLC (unknown); Vachette Business Services, Ltd. (4672); Phoenix Health, LLC (0856); MDRX Medical Billing, LLC (5410); VEGA Medical Professionals, LLC (1055); Allegiance Consulting Associates, LLC (7291); Allegiance Billing & Consulting, LLC (7141); New York Network Management, LLC (7168). The corporate headquarters and the mailing address for the Debtors listed above is 1715 Route 35 North, Suite 303, Middletown, NJ 07748


Inc., jointly and individually, in favor of the Plaintiff, Howard M. Ehrenberg, In His Capacity As Liquidating Trustee Of Orion Healthcorp, Inc., as follows:

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff recover the following:

1. Judgment is hereby entered against Defendants, Arvind Walia, and NIKNIM Management, Inc., jointly and individually, and in favor of Plaintiff, Howard M Ehrenberg, the duly appointed Liquidating Trustee for Orion Healthcorp., Inc., in the amount of \$1,520,000 in principal plus costs of suit of \$350.00 and prejudgment interest, calculated from the date of the filing of the Complaint on March 13, 2020, to judgment, (1,831 days) calculated in accordance with New York State Law at 9% simple interest in the amount of \$686,248.76, for a total judgment of \$2,206,598.76.
2. Post-judgment interest shall accrue and be payable by Defendants, Arvind Walia and NIKNIM Management, Inc., jointly and individually at the prevailing federal rate pursuant to 28 U.S.C. § 1961(a) from the date of entry of this Judgment to the date the amount is paid in full.

Dated: April 3, 2025
Central Islip, New York




Alan S. Trust
Chief United States Bankruptcy Judge

Notice Recipients

District/Off: 0207-8	User: admin	Date Created: 4/4/2025
Case: 8-20-08049-ast	Form ID: pdf000	Total: 6

Recipients of Notice of Electronic Filing:

aty	Eugene Ronald Scheiman	eugene.scheiman@scheimanlaw.com
aty	Paris Gyparakis	pgyparakis@pbnlaw.com
aty	Sanford P Rosen	srosen@rosenpc.com

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

ust	United States Trustee	Long Island Federal Courthouse	560 Federal Plaza – Room 560	Central Islip,
	NY 11722-4437 USA			
10129404	Arvind Walia	C/O The Law Office of Eugene R. Scheiman	570 Lexington Avenue, Suite 1600	New
	York, New York 10022			
10129405	Niknim Management Inc.	C/O The Law Office of Eugene R. Scheiman	570 Lexington Avenue, Suite	
	1600	New York, New York 10022		

TOTAL: 3

Notice Recipients

District/Off: 0207-8	User: admin	Date Created: 4/17/2025
Case: 8-20-08049-ast	Form ID: pdf000	Total: 2

Recipients of Notice of Electronic Filing:

aty	Jeffrey P Nolan	jnolan@pszjlaw.com
-----	-----------------	--------------------

TOTAL: 1

Recipients submitted to the BNC (Bankruptcy Noticing Center):

ust	United States Trustee	Long Island Federal Courthouse	560 Federal Plaza – Room 560	Central Islip,
	NY 11722-4437			

TOTAL: 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL COVER SHEET

This form is REQUIRED for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

IN RE: Bankruptcy Case No. 18-71748 (AST) Adv. Pro. No. (if applicable) 20-08049 (AST)

Bankruptcy Appeal

APPELLANTS

ARVIND WALIA and NIKNIM
MANAGEMENT INC.

ATTORNEYS (FIRM NAME, ADDRESS, TEL. NO.)

Sanford P. Rosen, Esq.
ROSEN & ASSOCIATES, P.C.
P.O. Box 1274
Shelter Island Heights, NY 11965
Phone: (212) 223-1100
Email: srosen@rosenpc.com

Eugene R. Scheiman, Esq.
**LAW OFFICES OF EUGENE R.
SCHEIMAN, PLLC**
570 Lexington Avenue
New York, NY 10022
Phone: (646) 280-9000
Email: eugene.scheiman@sheimanlaw.com

APPELLEES

HOWARD M. EHRENBERG, IN HIS CAPACITY
AS LIQUIDATING TRUSTEE OF
ORION HEALTHCORP, INC., ET AL.

ATTORNEYS (IF KNOWN)

Jeffery P. Nolan, Esq.
**PACHULSKI STANG ZIEHL &
JONES LLP**
780 Third Avenue, 34th Floor
New York, NY 10017
Phone: (310) 772.2313
Email: jnolan@pszjlaw.com

BASIS OF JURISDICTION: Federal Question

CAUSE OF ACTION - 28:1334 Bankruptcy Appeal (Write brief statement of cause.)

Appellants appeal from the Judgment of the United States Bankruptcy Court entered against Appellants Arvind Walia and Niknim Management Inc. [Doc. No. 157]

NATURE OF SUIT: 422 Bankruptcy Appeal (801)

RELATED CASE(S) IN DISTRICT COURT, IF ANY

DISTRICT JUDGE _____ DOCKET NUMBER _____

CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVED:

1. PROPERTY ' INCLUDED IN AN EARLIER NUMBERED PENDING SUIT
2. SAME ISSUE OF FACT OR GROWS OUT OF THE SAME TRANSACTION
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT COPYRIGHT OR TRADEMARK

Date: 04/10/2025 _____

Signature of Attorney of Record: /s/ Sanford P. Rosen
(or Appellant Pro Se)

FOR COURT USE ONLY

APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CIVIL COVER SHEET, Bankruptcy Appeal (cont'd)

Did the cause of action arise in Nassau or Suffolk County? **Yes**

If YES, please indicate which county: Suffolk

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

YES **Yes**

NO

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

YES (If yes, please explain)

NO **No**

Please provide your bar code and e-mail address below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number, or any other four-digit number registered by the attorney with the Clerk of Court. This information must be provided pursuant to local rule 11.1(b) of the local civil rules,

Attorney Bar Code: **19-23079**

E-Mail Address srosen@rosenpc.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

In re:

ORION HEALTHCORP, INC. *et al.*,

Debtors.

HOWARD M. EHRENBERG, IN HIS CAPACITY
AS LIQUIDATING TRUSTEE OF ORION
HEALTHCORP, INC., ET AL.,

Plaintiff,

v.

ARVIND WALIA; NIKNIM MANAGEMENT INC.,

Defendants.

Chapter 11

Case No. 18-71748 (AST)

Adv. Proc. No. 20-08049 (AST)

STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

Arvind Walia and Niknim Management Inc., pursuant to the Notice of Appeal dated April 10, 2025, of the judgment of the United States Bankruptcy Court for the Eastern District of New York dated April 3, 2025 (the “Judgment”), set forth the following as their statement of issues to be presented on appeal:

1. Whether, by its order dated April 23, 2024, which underlies the Judgment, the Bankruptcy Court erred in granting summary judgment against Defendant-Appellant Niknim Management Inc., notwithstanding the existence of a genuine issue of material fact as to the reasonableness of value received by the debtors because of their exclusive use of the software acquired under the Objectech Membership Purchase Agreement.
2. Whether, by its order dated April 23, 2024, which underlies the Judgment, the Bankruptcy Court erred in denying the Defendants’-Appellants’ summary judgment motion by finding that the Plaintiff-Appellee had standing to assert the claims under section 544 of the Bankruptcy Code, notwithstanding the failure to properly plead standing.

(Signature on following page.)

Dated: April 16, 2025

Respectfully Submitted,

ROSEN & ASSOCIATES, P.C.

By: /s/ Sanford P. Rosen
Sanford P. Rosen
PO Box 1274
Shelter Island Heights, NY 11965
(212) 223-1100

*Counsel to Arvind Walia and
Niknim Management Inc., Appellants*

and

LAW OFFICES OF EUGENE R. SCHEIMAN, PLLC
570 Lexington Avenue, Suite 1600
New York, NY 10022
(646) 280-9000

*Co-Counsel to Arvind Walia and
Niknim Management Inc., Appellants*

CERTIFICATE OF SERVICE

I certify that on April 16, 2025, I caused a true and correct copy of the foregoing document to be served by the Court's CM/ECF notification system, which will send notice of electronic filing to all counsel of record.

/s/ Sanford P. Rosen
Sanford P. Rosen

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

In re:

ORION HEALTHCORP, INC. *et al.*,

Debtors.

HOWARD M. EHRENBURG, IN HIS CAPACITY
AS LIQUIDATING TRUSTEE OF ORION
HEALTHCORP, INC., ET AL.,

Plaintiff,

v.

ARVIND WALIA; NIKNIM MANAGEMENT INC.,

Defendants.

Chapter 11

Case No. 18-71748 (AST)

Adv. Proc. No. 20-08049 (AST)

**DESIGNATION OF RECORD ON APPEAL AND
STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

Arvind Walia and Niknim Management Inc. (together, the “Appellants”) designate the following items to be included in the record on appeal, pursuant to the Notice of Appeal dated April 10, 2025, from the order and judgment of the United States Bankruptcy Court for the Eastern District of New York dated April 3, 2025, entering judgment against the Appellants, jointly and individually (the “Judgment”), and set forth the following as their designation of the record on appeal and statement of issues to be presented on appeal:

A. Designation of Record:

1. Amended Complaint and Exhibits [Docket 22]
2. Answer [Docket 23]
3. Defendants’ Motion for Partial Summary Judgment and Exhibits [Docket 51]
4. Plaintiff’s Motion for Summary Judgment [Docket 53]
5. Plaintiff’s Statement of Undisputed Facts [Docket 54]
6. Affidavit of Jeffrey P. and Exhibits [Docket 55]
7. Affidavit of Edith Wong in Support of Plaintiff’s Motion and Exhibits [Docket 56]
8. Affidavit of Frank Lazzara Support of Plaintiff’s Motion and Exhibits [Docket 57]
9. Statement-Request for Judicial Notice Nolan in Support of Plaintiff’s Motion and Exhibits [Docket 58]

10. Objection/Opposition to Defendants' Motion for Partial Summary Judgment [Docket 60]
11. Response-Plaintiff's Response to Defendants' Separate Statement of Facts [Docket 61]
12. Affidavit of Jeffrey P. Nolan in Opposition to Defendants' Motion and Exhibits [Docket 62]
13. Affidavit of Arvind Walia in Opposition to Plaintiff's Motion [Docket 64]
14. Brief in Opposition to Plaintiff's Motion [Docket 65]
15. Affirmation of Sanford P. Rosen in Opposition to Plaintiff's Motion [Docket 66]
16. Affidavit of Arvind Walia in Opposition to Plaintiff's Motion [Docket 67]
17. Memorandum of Law in Opposition to Plaintiff's Motion [Docket 68]
18. Affidavit of Sanford P. Rosen in Opposition to Plaintiff's Motion [Docket 69]
19. Reply of Defendants in Support of Motion [Docket 70]
20. Objection and Request to Strike the Affidavit of Arvind Walia in Support of Motion [Docket 71]
21. Reply Brief in Support of Plaintiff's Motion [Docket 72]
22. Affidavit of Jeffrey P. Nolan in Support of Plaintiff's Motion and Exhibits [Docket 73]
23. Defendants' Corrected Affidavit in Opposition to Plaintiff's Motion [Docket 84]
24. Affirmation of Sanford P. Rosen in Opposition to Plaintiff's Motion [Docket 85]
25. Transcript of Ruling Hearing of April 10, 2024
26. Order Granting and Denying in Part Plaintiff's Motion for Summary Judgment/Summary Adjudication and Denying Defendants Arvind Walia's and Niknim Management, Inc.'s Crossmotion for Summary Judgment; Ruling on Evidentiary Objections; and Establishing Facts as Admitted in the Case Pursuant to FRCP 56(g) [Docket 97]
27. Order Granting and Denying in Part Judgment against Defendants Arvind Walia and Niknim Management, Inc. [Docket 153]
28. Judgment against Defendants Arvind Walia and Niknim Management, Inc. [Docket 157]
29. Notice of Appeal to District Court [Docket 159]
30. Civil Cover Sheet [Docket 160]

B. Issues on Appeal:

1. Whether, by its order dated April 23, 2024, which underlies the Judgment, the Bankruptcy Court erred in granting summary judgment against Defendant-Appellant Niknim Management Inc., notwithstanding the existence of a genuine issue of material fact as to the reasonableness of value received by the debtors because of their exclusive use of the software acquired under the Objectech Membership Purchase Agreement.

2. Whether, by its order dated April 23, 2024, which underlies the Judgment, the Bankruptcy Court erred in denying Defendants' summary judgment motion by finding that the Plaintiff had standing to assert the claims under section 544 of the Bankruptcy Code, notwithstanding the Plaintiff's failure to properly plead his standing.

Dated: April 16, 2025

Respectfully Submitted,

ROSEN & ASSOCIATES, P.C.
*Counsel to Arvind Walia and Niknim
Management Inc.*

By: /s/ Sanford P. Rosen
Sanford P. Rosen

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Management Inc.*
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New York, NY 10022
(646) 280-9000

CERTIFICATE OF SERVICE

I certify that on April 16, 2025, I caused a true and correct copy of the foregoing document to be served by the Court's CM/ECF notification system, which will send notice of electronic filing to all counsel of record.

/s/ Sanford P. Rosen
Sanford P. Rosen

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re

ORION HEALTHCORP, INC., ET AL.,

Debtor.

HOWARD M. EHRENBERG, IN HIS
CAPACITY AS LIQUIDATING TRUSTEE OF
ORION HEALTHCORP, INC., ET AL.,

Plaintiff-Appellee,

v.

ARVIND WALIA; NIKNIM
MANAGEMENT, INC.,

Defendants-Appellants.

Chapter 11

Case No. 18-71748 (AST)

Adv. Proc. No. 20-08049(AST)

Civil Case No. 2:25-cv-02032-RPK (E.D.N.Y)

**APPELLEE’S SUPPLEMENTAL DESIGNATION OF RECORD OF
ADDITIONAL ITEMS TO BE INCLUDED IN RECORD RE: NOTICE OF APPEAL**

Plaintiff, Howard M. Ehrenberg, in his capacity as Liquidating Trustee of Orion Healthcorp., Inc., (the “**Appellee**”) hereby submits *Appellee’s Supplemental Designation Of The Record Of Additional Items To Be Included In The Record Re: Notice Of Appeal of Order Granting and Denying In Part Against Arvind Walia and Niknim Management, Inc. Judgment Against Arvind Walia and Niknim Management, Inc.* (the “**Supplemental Designation**”), to the appeal filed by Defendants, Arvind Walia and Niknim Management, Inc. (the “**Appellant**”) as follows:

APPELLEE’S SUPPLEMENTAL DESIGNATIONS OF THE RECORD

1. Stipulation and Order Re Filing of First Amended Complaint; and Entering of Scheduling Order [Docket No. 20].

2. Stipulation Requesting Amendment to Case Management and Discovery Plan (signed by Judge) [Docket No. 27].
3. Letter of Adjournment [Docket No. 33].
4. Stipulation to Attend Mediation and Toll Remaining Deadlines [Docket No. 34]
5. Letter to Judge Trust re Mediation [Docket No. 37].
6. Declaration of Jeffrey P. Nolan with Regard to Status and Completion of Remaining Expert Discovery [Docket No. 38].
7. Declaration of Sanford P. Rosen with Respect to the Status of the Litigation and the Filing of Plaintiff's Proposed Order to Complete Remaining Expert Discovery and in Response to the Declaration of Jeffrey P. Nolan Submitted in Support of the Order [Docket No. 40].
8. Letter to Judge Trust re note settled after mediation [Docket No. 41].
9. Order to Complete Expert Discovery [Docket No. 42].
10. Letter to Judge Trust Requesting Pre-Motion Conference [Docket No. 45].
11. Stipulation for Scheduling Order re Briefing Schedule for Summary Judgment Motions and Order (signed by Judge) [Docket No. 49].
12. Letter to Judge Trust re Summary Judgment briefing complete [Docket No. 79].
13. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 80].
14. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 81].
15. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 82].
16. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 83].
17. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 87].
18. Letter to Judge Trust stating Defendants ready to proceed with hearing on Motion for Summary Judgment [Docket No. 88].

19. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 89].
20. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 90].
21. Letter to Judge Trust re adjournment of Pretrial Conference [Docket No. 91].
22. Adversary Pre-Trial Scheduling Order [Docket No. 92].
23. Request For Judicial Notice [Docket No. 136].
24. Joint Pre-Trial Memorandum [Docket No. 137].

Dated: April 30, 2025

PACHULSKI STANG ZIEHL & JONES LLP

By /s/Jeffrey P. Nolan
Ilan D. Scharf, Esq.
Jeffrey P. Nolan, Esq. (*admitted pro hac vice*)
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Facsimile: (212) 561-7777

*Counsel for Howard M. Ehrenberg in his
capacity as the Liquidating Trustee of Orion
Healthcorp, Inc., et al.*

CERTIFICATE OF SERVICE

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

I, Rolanda Mori, am over the age of eighteen years, am employed by Pachulski Stang Ziehl & Jones LLP. I am not a party to the within action; my business address is 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067-4003.

On April 30, 2025, in addition to service via the Court's ECF system, I caused a true and correct copy of the following document to be served via electronic mail upon parties set forth on the service list annexed hereto as Exhibit A.

- *Appellee's Supplemental Designation Of Record Of Additional Items To Be Included In Record Re: Notice Of Appeal*

I declare under penalty of perjury, under the laws of the State of New York and the United States of America that the foregoing is true and correct.

/s/ Rolanda Mori

Rolanda Mori

EXHIBIT A

SERVICE BY E-MAIL

NAME	NOTICE NAME	EMAIL
Sanford P. Rosen, Esq. Paris Gyparakis, Esq. ROSEN & ASSOCIATES, P.C. 747 Third Avenue New York, NY 10017- 2803	<i>Defendants Arvind Walia and Niknim Management Inc.</i>	srosen@rosenpc.com pgyparakis@rosenpc.com
Eugene Ronald Scheiman, Esq. The Law Office of Eugene R. Scheiman 570 Lexington Avenue Suite 1600 New York, NY 10022 Email:	<i>Defendants Arvind Walia and Niknim Management Inc.</i>	eugene.scheiman@scheimanlaw.com